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Rules of Governmental Agencies

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 17, 1998 - Issue 16: Through	March 31, 1998
July 17, 1998 - Issue 29: Through	June 30, 1998
October 16, 1998 - Issue 42: Through	September 30, 1998
January 15, 1999 - Issue 3: Through	December 31, 1998 (Annual)

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Weights and Measures Act
- 2) Code Citation: 8 Ill. Adm. Code 600
- 3) Section Number:
600.320 Proposed Action:
Amended
- 4) Statutory Authority: Weights and Measures Act [225 ILCS 470]
- 5) A Complete Description of the Subjects and Issues Involved: This proposal clarifies the minimum amount of weight to be applied during a build up and a strain load test.

The Department recently purchased new scale testing units that carry more calibrated test weights. Because of the method by which weights are now applied to a scale, the decreasing load test can no longer be applied at 12,000 pounds.

The word "external" is being removed in subsection (i) to clarify that a truck is in reasonably level condition when all brakes, including the internal brakes, are released.

- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period for receiving comments from the public will begin on the day this notice of rulemaking appears in the *Illinois Register*. Written comments should be sent to the attention of:

Debbie Wakefield
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
217/785-5713
Facsimile: 217/785-4505

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Large truck businesses
- B) Reporting, bookkeeping or other procedures required for compliance: This proposal clarifies the minimum amount of test weights to be applied to certify a scale and when a decreasing load test is to be conducted for scales used to enforce highway weight laws. This proposed rulemaking should have no adverse effect on businesses.
- C) Types of professional skills necessary for compliance: No additional professional skills are necessary.

- 13) Regulatory agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER P: WEIGHTS AND MEASURES

PART 600

WEIGHTS AND MEASURES ACT

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Section	
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600.10	Definitions (Repealed)
600.20	Application (Repealed)
600.30	Identity (Repealed)
600.40	Declaration of Identity: Nonconsumer Package (Repealed)
600.50	Declaration of Responsibility: Consumer and Nonconsumer Packages (Repealed)
600.60	Declaration of Quantity: Consumer Packages (Repealed)
600.70	Declaration of Quantity: Nonconsumer Packages (Repealed)
600.80	Prominence and Placement: Consumer Packages (Repealed)
600.90	Prominence and Placement: Nonconsumer Package (Repealed)
600.100	Requirements: Specific Consumer Commodities, Packages, Containers (Repealed)
600.110	Exemptions (Repealed)
600.120	Variations to be Allowed (Repealed)
600.130	Standards of Fill (Repealed)
600.140	Wholesale and Retail Exemption
600.150	Revocation of Conflicting Regulations (Repealed)
600.160	Tables: Weights and Measures Standards for Illinois

SUBPART B: ROOFING AND ROOFING MATERIALS

Roofing and Roofing Materials Shall Be Sold Either by the "Square" or by the "Square Yard." (Repealed)

SUBPART C: WEIGHING AND MEASURING DEVICES:
METERS -- SCALES -- FEES

Section	
600.300	Vehicle Scales Regulation
600.310	Fees
600.320	Scales Used for the Enforcement of Highway Weight Laws
600.330	National Institute of Standards and Technology Handbook 44

SUBPART D: MOISTURE METER TESTING

Section

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

600.350	General (Repealed)
600.360	Testing and Inspection (Repealed)
600.370	Rejected Moisture Testing Devices (Repealed)
600.380	Use of Moisture Measuring Devices (Repealed)

SUBPART E: REGISTRATION OF SERVICE AGENCIES, SERVICEMEN,
AND SPECIAL SEALERS FOR COMMERCIAL
WEIGHING AND MEASURING DEVICES

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600.460	Definitions (Repealed)
600.470	Certificate of Registration (Repealed)
600.480	Types of Certificates (Repealed)
600.490	Examinations (Repealed)
600.500	Exemptions (Repealed)
600.510	Registration Fee (Repealed)
600.520	Reports (Repealed)
600.530	Bonds (Repealed)
600.540	Standards and Testing Equipment (Repealed)
600.550	Revocation of Certificate of Registration (Repealed)
600.560	Publication of Lists (Repealed)

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600.650	Use of Gasoline Pumps Which Are Not Capable of Computing the Prices Which Exceed 99.9¢ Per Gallon
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600.690	Price of Gasoline
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DEPARTMENT OF AGRICULTURE
NOTICE OF PROPOSED AMENDMENTS

- 600.840 Product Identity and Type of Service
600.850 Advertisement of Price Not Required Except on Pump
600.860 Stop Use Order; Hearing
- TABLE A Minimum Height of Numbers and Letters (Repealed)
TABLE B Standard Weight Per Bushel for Agricultural Commodities
TABLE C Illinois Standard Weights and Measures
TABLE D Equivalents: Cubic Inches in U.S. Standard Capacity Measures
TABLE E Weights of Coal Per Cubic Foot
TABLE F Equivalents to be used by Seller in Transposing Weights
TABLE G Measurement of Surfaces and Volumes

AUTHORITY: Implementing and authorized by Section 8 of the Weights and Measures Act [225 ILCS 470/8].

SOURCE: Rules and Regulations Relating to the Weights and Measures Act, filed December 17, 1969, effective January 1, 1970; amended November 5, 1971, effective November 15, 1971; amended August 26, 1975, effective September 4, 1975; amended March 22, 1976, effective April 1, 1976; amended at 3 Ill. Reg. 45, p. 72, effective October 29, 1979; amended at 3 Ill. Reg. 45, p. 81, effective January 1, 1980; codified at 5 Ill. Reg. 10562; amended at 12 Ill. Reg. 8306, effective May 3, 1988; amended at 12 Ill. Reg. 15524, effective September 20, 1988; emergency amendment at 18 Ill. Reg. 4426, effective March 7, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14692, effective September 13, 1994; amended at 19 Ill. Reg. 8114, effective June 7, 1995; amended at 20 Ill. Reg. 303, effective January 1, 1996; amended at 22 Ill. Reg. 1141, effective January 1, 1998; amended at 23 Ill. Reg. _____, effective _____.

SUBPART C: WEIGHING AND MEASURING DEVICES: METERS -- SCALES -- FEES

Section 600.320 Scales Used for the Enforcement of Highway Weight Laws

The following procedures will be used to determine the certification of scales used for the enforcement of highway weight laws. These procedures will determine if a scale(s) is to be certified or condemned. These rules supersede those published in the National Institute of Standards and Technology's Handbook 44.

- a) A minimum build up test with known test weights shall be conducted as follows:
1) portable wheel load weigher scale - 10,000 pounds
2) all other scales - 20,000 pounds
- An increasing load test consisting of at least 20,000 pounds of known test weight shall be conducted on all scales. A minimum of two known test weight loads shall be applied, normally at the capacity of test weight load and another at one half capacity of the test weight load to each scale.
- b) A 40,000 pound minimum strain load test shall be conducted only on a

DEPARTMENT OF AGRICULTURE
NOTICE OF PROPOSED AMENDMENTS

- vehicle scale, a scale that is adapted to weighing the entire vehicle at one time.
- c) One decreasing load test shall be conducted at approximately one-half of test weight capacity 12,000 pounds of known test weight to 9,000 pounds of known test weight. If multiple scales are used in combination, a decreasing load test shall be performed on at least one scale.
- e) A minimum build up or strain load test shall be conducted as follows:
1) wheel load and portable axle load scales - 10,000 pounds
2) wheel load and portable axle load scales used in pairs - 20,000 pounds
3) permanently installed axle load scales - 20,000 pounds
4) all other scales - 40,000 pounds
- d) At least one repeatability test shall be conducted. Any errors found shall agree within the absolute value of the maintenance tolerance for that load, and shall be within applicable tolerance.
- e) The tolerances to each of the above tests shall be those listed in the scale code of the latest edition of the National Institute of Standards and Technology's Handbook 44.
- f) All new scales and associated equipment must have a certificate of conformance issued by the National Type Evaluation Program.
- g) Electronic indicating elements equipped with recording elements shall be equipped with effective means to permit the recording of weight values only when the indication is stable within plus or minus three scale divisions.
- h) The maximum scale division shall be 100 pounds.
- i) For axle, portable axle, and wheel load weigher scales, a vehicle must be in a reasonably level condition at the time the weight is being determined. Reasonably level means the vehicle must remain stationary during weighing without the use of any external braking force.
- j) For all other scales used to determine the weight of axles when part of the truck is not resting on a scale, the vehicle must be in a reasonably level condition at the time the weight is being determined.
- k) All scales used for the enforcement of highway weight laws shall be certified at least once every twelve months.
- l) Any registered serviceperson of the Illinois Department of Agriculture has the authority to place into service scales used for the enforcement of highway weight laws if the serviceperson conforms to the procedures listed above.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan

2) Code Citation: 80 Ill Adm. Code 2700

3) Section Numbers: Proposed Action:

2700.110 Amend
2700.310 Amend
2700.600 Amend
2700.610 Amend
2700.660 Amend
2700.730 Amend
2700.740 Amend
2700.750 Amend
2700.800 Amend
2700.820 Amend

4) Statutory Authority: Implementing Section 457 of the Internal Revenue Code (26 USCA 457, 1986, as now or hereafter amended) and the rules of the Internal Revenue Service (26 CFR 1, April 1, 1988, as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

5) A Complete Description of the Subjects and Issues Involved: Most of the amendments are required in connection with the amendments to Section 457(g) of the Internal Revenue Code that requires all assets held in a "457" plan maintained by a government agency to be held in a trust, custodial account or insurance contract for the exclusive benefit of participants and beneficiaries. This must occur no later than January 1, 1999. Because the Plan is subject to Section 457, it has been decided to transfer the assets held under the Plan to a custodial account in order to comply with Section 457(g).

The other amendments involve eliminating the annuity option as a form of distribution and providing for annual recalculation of life expectancy in connection with an installment form of distribution.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
217/782-9669

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for the rulemaking did not come to the Department's attention until after the timeframe in which a regulatory agenda was to be filed.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appear on page of this edition of the Illinois Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

113.107 Amendment 22 Ill. Reg. 15872
 113.111 Amendment 22 Ill. Reg. 15872
 113.157 Amendment 22 Ill. Reg. 11266
 113.158 New Section 22 Ill. Reg. 11266
 113.309 Repeal 22 Ill. Reg. 16131

10) Statement of Statewide Policy Objectives (if applicable):
 This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor Harris Bldg.
 Springfield IL 62762
 Telephone number: (217) 785-9772

12) Initial Regulatory Flexibility Analysis:

1) Types of small businesses, small municipalities and not for profit corporations affected: None

2) Reporting, bookkeeping or other procedures required for compliance: None

3) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments is identical to the text of the *Emergency Amendments* that appears in this issue of the *Register* on page _____.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Aid to the Aged, Blind or Disabled

2) Code Citation: 89 Ill. Adm. Code 113

3) Section Numbers: Proposed Action:
 113.10 Amendment

4) Statutory Authority: 305 ILCS 5/12-4.34

5) A Complete Description of the Subjects and Issues involved:

As a result of these proposed amendments, certain non-citizens will meet the immigration status requirement for assistance if they meet the following criteria:

- The person was admitted to the U.S. as a spouse, widow, or child of a U.S. citizen or as a spouse or child of a non-citizen who is a lawful permanent abused resident (LPR).
- The person has been subjected to extreme cruelty by the U.S. citizen or LPR or by a member of that relative's family who lived with them.
- The person needs assistance, at least in part, due to the abuse.

• The person no longer lives with the abuser or plans to live separately within one month after receipt of assistance.

These proposed amendments also establish that persons who meet these criteria are qualified non-citizens. They do not have to wait 5 years after entering the U.S. to qualify for assistance. The children of an abused parent or the parents of an abused child may also qualify with the abused person, if they did not participate in the abuse.

Companion amendments are also being proposed to 89 Ill. Adm. Code 112 and 114.

6) Will this proposed rulemaking replace an emergency rule currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Numbers: 114.10
Proposed Action: Amendment
- 4) Statutory Authority: 305 ILCS 5/12-4.34
- 5) A Complete Description of the Subjects and Issues involved: As a result of these proposed amendments, certain non-citizens will meet the immigration status requirement for assistance if they meet the following criteria:
 - The person was admitted to the U.S. as a spouse, widow, or child of a U.S. citizen or as a spouse or child of a non-citizen who is a lawful permanent abused resident (LPR).
 - The person has been subjected to extreme cruelty by the U.S. citizen or LPR or by a member of that relative's family who lived with them.
 - The person needs assistance, at least in part, due to the abuse.
 - The person no longer lives with the abuser or plans to live separately within one month after receipt of assistance.

These proposed amendments also establish that persons who meet these criteria are qualified non-citizens. They do not have to wait 5 years after entering the U.S. to qualify for assistance. The children of an abused parent or the parents of an abused child may also qualify with the abused person, if they did not participate in the abuse.

Companion amendment are also being proposed to 89 Ill. Adm. Code 112 and 113.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
114.223	Amendment	22 Ill. Reg. 15901
114.224	Amendment	22 Ill. Reg. 15901
114.406	Repeal	22 Ill. Reg. 16133

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- 114.408 New Section 22 Ill. Reg. 11279
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:
 Ms. Susan Weir, Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor Harris Bldg.
 Springfield, Illinois 62762
 (217) 785-9772
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: It was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of these Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the Register on page _____.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers: Proposed Action:
112.10 Amendment
- 4) Statutory Authority: 305 ILCS 5/12-4.34
- 5) A Complete Description of the Subjects and Issues Involved: As a result of these proposed amendments, certain non-citizens will meet the immigration status requirement for assistance if they meet the following criteria:
 - The person was admitted to the U.S. as a spouse, widow, or child of a U.S. citizen or as a spouse or child of a non-citizen who is a lawful permanent abused resident (LPR).
 - The person has been subjected to extreme cruelty by the U.S. citizen or LPR or by a member of that relative's family who lived with them.
 - The person needs assistance, at least in part, due to the abuse.
 - The person no longer lives with the abuser or plans to live separately within one month after receipt of assistance.

These proposed amendments also establish that persons who meet these criteria are qualified non-citizens. They do not have to wait 5 years after entering the U.S. to qualify for assistance. The children of an abused parent or the parents of an abused child may also qualify with the abused person, if they did not participate in the abuse.

Companion amendments are also being proposed to 89 Ill. Adm. Code 113 and 114.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
112.1	Amendment	22 Ill. Reg. 13286
112.9	Amendment	22 Ill. Reg. 13286

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENTS

112.70	Amendment	22 Ill. Reg. 13286
112.72	Amendment	22 Ill. Reg. 13286
112.74	Amendment	22 Ill. Reg. 13286
112.78	Amendment	22 Ill. Reg. 13286
112.79	Amendment	22 Ill. Reg. 13286
112.80	Amendment	22 Ill. Reg. 13286
112.255	Repeal	22 Ill. Reg. 16135
112.305	Amendment	22 Ill. Reg. 9102

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
Telephone number: 217/785-9772

- 12) Initial Regulatory Flexibility Analysis:
 - 1) Types of small businesses, small municipalities and not for profit corporations affected: None
 - 2) Reporting, bookkeeping or other procedures required for compliance: None
 - 3) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because: it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the Illinois Register on page _____.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Animal Diagnostic Laboratory Act2) Code Citation: 8 Ill. Adm. Code 1103) Section Numbers: Adopted Action:

110.50 Amended

110.70 Amended

110.90 Amended

110.100 Amended

110.110 Amended

4) Statutory Authority: Animal Disease Laboratory Act [510 ILCS 10]5) Effective Date of amendments: January 1, 19996) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? No8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15783, September 4, 1998.10) Has JCAR issued a Statement of Objection to this rulemaking? No11) Difference between proposal and final version: In Section 110.50(b), a cosmetic necropsy is performed on cats and dogs only so the reference to other animals is deleted. In Section 110.90(d)(15), "virus" is added after "leukemia", and the Galesburg Laboratory does not perform this test so the "G" (for Galesburg lab) is deleted. Nonsubstantive editorial corrections are also made.12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements.13) Will these amendments replace an emergency amendment currently in effect?
No14) Are there any amendments pending on this Part? No15) Summary and Purpose of Amendments: A fee of \$100 for a cosmetic necropsy for cats and dogs is established in Section 110.50. The fee for cytology is being increased to \$12 in Section 110.70. A charge for a pseudorabies latex agglutination test of \$3.00 is being added to Section 110.90. The Johne's ELISA test is being made more affordable in Section 110.90(d).

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NOTICE OF ADOPTED AMENDMENTS

Charges for actinobacillus pleuropneumoniae, mycoplasma hyopneumoniae, caprine arthritis encephalitis and bovine leukemia ELISA are being added to Section 110.90(d). Charges for helminth ova in sludge, giardia/cryptosporidia FA and cryptosporidia ELISA are being added to Section 110.100. A charge for herbicides requiring derivitization is being added to Section 110.110(e). A charge for feed particle size and total suspended solids is being added to Section 110.110(h).

16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER I: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 110

ANIMAL DIAGNOSTIC LABORATORY ACT

Section	
110.10	Definitions
110.20	Submitting Specimens
110.30	Payment For Laboratory Services
110.40	Tests Not Covered By Fee Schedule
110.50	Minimum Fees
110.60	Euthanasia Fees
110.70	Clinical Pathology Fees
110.80	Histopathology Fees
110.90	Microbiology Fees
110.100	Parasitology Fees
110.110	Toxicology Fees
110.120	Miscellaneous Fees
110.130	Meats Chemistry Fees
110.140	Liquor Control Commission Fees

AUTHORITY: Implementing and authorized by the Animal Disease Laboratory Act [510 ILCS 10].

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. Reg. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10163, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March 1, 1990; amended at 14 Ill. Reg. 15304, effective September 10, 1990; amended at 16 Ill. Reg. 11416, effective July 1, 1992; amended at 18 Ill. Reg. 1825, effective February 1, 1994; amended at 18 Ill. Reg. 17433, effective December 1, 1994; amended at 20 Ill. Reg. 255, effective January 1, 1996; amended at 20 Ill. Reg. 16176, effective January 1, 1997; amended at 21 Ill. Reg. 17034, effective January 1, 1998; amended at 23 Ill. Reg. 3060, effective JAN 1 1999.

Section 110.50 Minimum Fees

- a) A minimum accession fee of \$5 per accession shall be charged on all accessions originating from Illinois animals, with the exception of samples for trichinosis testing for which the minimum accession fee is \$1. If such fees for the individual tests exceed the minimum fee, no minimum fee shall be charged. Persons submitting specimens for which

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NOTICE OF ADOPTED AMENDMENTS

- there are no charges for the laboratory procedure shall be exempt from the minimum fee.
- b) The necropsy fee is \$40 per accession up to four animals for all species and cadavers submitted where more than one test is needed, with an additional \$15 for each additional animal. Poultry are exempt from the additional charge for each animal over four. If multiple tissue specimens are submitted where more than one test is needed, the fee is \$35 per accession for up to four animals with an additional \$15 for each additional animal. The necropsy fee and multiple tissue specimens fee will include a test in pathology, microbiology, parasitology and toxicology as indicated by the necropsy. These fees do not include electron microscopy examination, toxicologic screens, water and feed analysis, serology or herd surveys. In cases where only a necropsy is performed without any tests, the fee is \$20 plus the disposal fee. The fee for a cosmetic necropsy for cats and dogs is \$100 \$288 (cases where the owner wants the carcass back).
- c) Electron microscopy and toxicologic tests (other than a screen for metals and pesticides) shall be performed only after consultation with and with approval from the person who requested the laboratory services at the fees set forth in this Part.
- d) All fees, including the minimum accession and necropsy fee, shall be doubled on all out-of-state owners, unless a specific charge is noted or the sample is referred from another state diagnostic laboratory at which time only the in-state fee will be charged.
- e) Serologic tests on paired, acute and convalescent specimens will be billed as one accession at the fee set forth in this Part.
- f) Accessions submitted as "rush priority" specimens shall be charged at twice the normal rate. This charge shall apply to any submission requesting service at a rate faster than the normal laboratory routine turnaround time for the requested test (e.g., before the regularly scheduled day, before other samples or on days requiring additional personnel time such as weekends or holidays). For cases where there is no in-state fee (i.e., pseudorabies or bovine or swine brucellosis), the fee shall be as for out-of-state samples.
- g) The fee for accessions up to four animals or multiple tissues from up to four animals for the following work-ups will be as indicated, with an additional \$15.00 for each additional animal. Poultry are exempt from the additional charge for each additional animal over four.

- 1) Porcine Abortion Work-up..... \$50.00 C, G
 2) Bovine Abortion Work-up..... 75.00 C, G
 3) Respiratory or Enteric
 Diagnostic Work-up..... 50.00 C, G

(Source: Amended at 23 Ill. Reg. 386, effective JAN 1 1999)

Section 110.70 Clinical Pathology Fees

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NOTICE OF ADOPTED AMENDMENTS

The following fees apply to those specimens submitted where a necropsy is not involved; with a minimum total fee of \$5.00:

a) Hematology:

1) Complete Blood Count (RBC, Hb, Ht, WBC, Diff.).....	\$ 8.00 C, G
2) Erythrocyte.....	3.00 C, G
3) Leukocyte.....	3.00 C, G
4) Bendixen Key.....	5.00 C, G
5) Hemoglobin.....	3.00 C, G
6) Hematocrit.....	3.00 C, G
7) Differential.....	3.00 C, G
8) Eosinophil Count--Total.....	5.00 C
9) Stippling.....	3.00 C, G
10) Fibrinogen.....	3.00 G
11) Erythrocyte Indices.....	3.00 G
12) Shorr Stain (canine distemper).....	5.00 C, G
13) Hemobartonella--Acridine Orange.....	5.00 C
14) Erythrocyte Parasites--Wright's Giemsa Stain.....	5.00 C, G
15) Erythrocyte Sedimentation Rate.....	5.00 C
16) Blood Compatibility Crossmatch.....	7.00 C
17) Pandey (Qualitative Protein).....	3.00 C
18) Bone Marrow, Collection and Examination.....	20.00 C
19) Bone Marrow Examination.....	5.00 C, G
20) Microfilaria.....	3.00 C, G

b) Urinalysis

1) Routine Chemistry and Microscopic Examination.....	5.00 C, G
2) Urine Urobilinogen, Qualitative.....	3.00 G
3) Urine Na.....	3.00 C
4) Urine K.....	3.00 C

c) Enzymology

1) SGOT (serum glutamic oxalacetic transaminase).....	3.00 C
2) SGPT (serum glutamic pyruvic transaminase).....	3.00 C
3) LDH (lactic dehydrogenase).....	3.00 C
4) Alkaline Phosphatase.....	3.00 C
5) Lipase.....	5.00 C
6) Amylase.....	5.00 C
7) Sorbitol dehydrogenase.....	5.00 C
8) Arginase Arginase.....	5.00 C

d) Chemistry

1) Bilirubin--Total and Direct.....	10.00 C
Total Only.....	5.00 C
Direct Only.....	5.00 C
2) Electrolytes (Ca, P, Mg, K, and Na).....	12.00 C
3) Calcium.....	3.00 C, G
4) Chloride.....	3.00 C
5) Cholesterol, Total.....	3.00 C
6) Creatinine.....	3.00 C
7) Glucose.....	3.00 C
8) Phosphorus.....	3.00 C, G

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9) Lactic Acid.....	3.00 C
10) Potassium.....	3.00 C
11) Total Protein.....	3.00 C, G
12) Albumin.....	3.00 C
13) Sodium.....	3.00 C, G
14) Blood Urea Nitrogen.....	3.00 C
15) Uric Acid.....	3.00 C
16) Zinc.....	3.00 C
17) Magnesium.....	3.00 C
18) Copper.....	3.00 C
19) Iron.....	3.00 C
e) Other Tests	
1) Calculi Analysis, Qualitative.....	10.00 C
2) Semen Examination.....	10.00 C, G
3) Cytology Transudate/Exudate	
Cytology Examination Only.....	12.00 5+00 C, G
Complete (i.e., Count, SG, TP, Sugar, Culture).....	20.00 C, G
4) Spinal Fluid (Cytology, SG, TP).....	10.00 C, G

(Source: Amended at 23 Ill. Reg. 9.8.6 = , effective
JAN 1 1999)

Section 110.90 Microbiology Fees

The following are the fees for microbiology:

a) Bacteriology, Mycoplasma and Fungi

1) Aerobic or anaerobic culture without sensitivity testing.....	10.00 C, G
2) Aerobic culture with sensitivity testing.....	15.00 C, G
3) Clostridium perfringens serotyping.....	5.00 G
4) Milk samples for mastitis evaluation	
1-4 specimens.....	15.00 C, G
(additional specimens, each at).....	2.00 C, G
Wisconsin mastitis test	
1-10 specimens, each.....	2.00 C
(additional specimens, each at).....	1.00 C

5)

Leptospirosis--6 serotypes	
Microtiter test-per specimen.....	2.00 C, G
Canine brucellosis--per specimen.....	5.00 C, G, S
7) Fluorescent Antibody Test (FA).....	10.00 C, G
8) Escherichia coli serotyping.....	3.00 C
9) Campylobacter (culture).....	4.00 C, G
10) Salmonella isolation using enrichment media.....	6.00 C, G
11) Hemophilus (culture).....	3.00 C, G
12) Nasal Swabs--Bordetella.....	2.00 C, G
13) Listeria (culture).....	4.00 C, G
14) Haemophilus equigenitalis (CEM).....	4.00 C, G
15) Spirochetes (swine dysentery--Treponema sp.).....	3.00 C, G

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16)	Johne's Bacillus (first specimen).....	7.00 C, G
17)	(each additional specimen).....	4.00 C, G
18)	Prepare and Supply Transport Media (per tube).....	1.00 C, G
19)	Return culture for bacterin production per organism	2.00 C, G
20)	Mycology Testing.....	6.00 C, G
21)	Microscopic examination.....	3.00 C
22)	Mycoplasma Testing.....	6.00 C, G
23)	E. Coli or Metritis (1-4 specimens).....	15.00 C, G
	(each additional specimen).....	2.00 C, G
	Trichomonas transport media.....	4.00 C, G
b) Virology		
1)	Electron Microscopy--fecal.....	15.00 G
2)	Pseudorabies Serology (positive or negative).....	no charge C, G
	Pseudorabies Serology Out-of-State.....	3.00 C, G
	Pseudorabies Serology (positive or negative) and end titer.....	3.00 C, G
	Pseudorabies Serology (request for screen at dilution of 1:2).....	3.00 C, G
3)	Pseudorabies Latex Agglutination.....	3.00 C, G
4)	Fluorescent Antibody Test (each disease).....	10.00 C, G
5)	Rabies.....	5.00 C, G
	Virus Isolation in Cell Culture (1 specimen).....	15.00 C, G
	Each additional specimen.....	10.00 C, G
6)	Viral Serology (each disease) (1-5 specimens, each).....	3.00 C, G
	(Each additional specimen).....	1.00 C, G
7)	Feline Leukemia Virus.....	10.00 C
8)	Feline Infectious Peritonitis (F.I.P.).....	5.00 C
9)	Canine parvo-virus (ELISA) fecal.....	5.00 C, G
10)	Canine parvo-virus serum.....	5.00 C
11)	Canine distemper on serum.....	5.00 C
12)	Rota-virus on fecal.....	10.00 C
13)	Semen testing (export).....	10.00 C
14)	Swine enterovirus (8 serotypes).....	12.00 C
15)	FeLV-FeLT.....	15.00 C
16)	Porcine fetal fluid IgG.....	3.00 C
17)	Feline lentivirus (FeLT).....	10.00 C
18)	Encephalomyocarditis (1-5 specimens, each).....	3.00 C, G
	(Each additional specimen).....	1.00 C, G
19)	PRRS (screening 1:20).....	2.00 G
	PRRS end titer.....	4.00 C, G
c)	Chlamydia Isolation in Cell Culture.....	15.00 C, G
d)	Miscellaneous serology	
1)	Toxoplasmosis (first sample).....	5.00 C
	(Each additional sample).....	2.50 C

DEPARTMENT OF AGRICULTURE
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2)	EIA-AGID.....	2.50 S
3)	EIA-CELISA.....	10.00 S
	Mare Immunological Pregnancy Test (35-60 days post-service).....	15.00 C
4)	Aleutian Disease-Mink (immunoelectrophoresis).....	.20 S
5)	Out-of-State brucellosis serology.....	.50 C, G, S
6)	Brucellosis testing other than bovine, porcine and canine.....	.50 C, G, S
7)	Bluetongue (1-5 specimens, each).....	3.00 C
	(Each additional specimen).....	2.00 C
8)	Bovine leukosis (BLV-AGID) (1-5 specimens, each).....	3.00 C, S
	(Each additional specimen).....	1.00 C, S
9)	Vesicular stomatitis (1-5 samples each).....	3.00 C
	(Each additional sample).....	2.00 C
10)	Complement Fixation Serology (1-5 specimens, each).....	3.00 C
	(Each additional specimen).....	1.00 C
	Note: The Complement Fixation Serology tests include testing for anaplasmosis, and chlamydia.	
11)	Johne's ELISA 1-10 1-3 specimens, each.....	10.00 20-00 C
	4-12 Specimens, each.....	10-00 e
	11 13 or more specimens, each.....	5.00 C
12)	Actinobacillus pleuropneumoniae per serotype.....	1.00 G
13)	Mycoplasma hyopneumoniae.....	3.00 G
14)	Caprine Arthritis Encephalitis (CAE).....	3.00 C, G
	first specimen.....	1.00 C, G
	each additional specimen.....	5.00 C
15)	Bovine leukemia virus ELISA (1-5 specimens, each).....	3.00 C
	each additional specimen.....	3.00 C

(Source: Amended at 23 Ill. Reg. 386, effective
JAN 1 1999)

Section 110.100 Parasitology Fees

The following are the fees for parasitology:

- Morphologic examination--ecto and endoparasites..... 4.00 C, G
- Baermann or Digestion..... 5.00 G
- Trichomonas foetus (Venereal trichomoniasis in cattle)
Examination and culture of vaginal washings (including
carrier media) 1-4 specimens..... 10.00 C, G
- Additional specimens, each..... 2.00 C, G
- Occult Dirofilaria serology (ELISA)..... 8.00 C
- Tissue Digestion Procedure (trichina)..... .10 C, S
- Helminth ova in sludge..... 5.00 C
- Cryptosporidia ELISA..... 15.00 C
- Giardia/Cryptosporidia FA..... 10.00 G

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Bovine Brucellosis
2) Code Citation: 8 Ill. Adm. Code 75
3) Section Numbers: Adopted Action:
75.5 Amended
75.10 Amended
75.60 Amended
75.70 Amended
75.80 Amended
75.120 Amended
75.160 Amended

4) Statutory Authority: Illinois Bovine Brucellosis Eradication Act [510 ILCS 30]

- 5) Effective Date of amendments: January 1, 1999
6) Does this rulemaking contain an automatic repeal date? No
7) Does this amendment contain incorporations by reference? Yes
8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15794, September 4, 1998.

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Difference between proposal and final version: Nonsubstantive editorial corrections are made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The restriction of the use of the RB-51 vaccine in Section 75.60 is being lifted. All references to the Code of Federal Regulations (CFR) are being updated to the 1998 edition of that publication. "Marketing center" is being added to Sections 75.70 and 75.80. An amendment in Section 75.160 clarifies that this section applies only to out-of-state female cattle entering Illinois.

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- Brain (first specimen)..... 15.00 C
(Each additional specimen)..... 10.00 C
26) Drug screen.....25.00 C
27) Sulfa residue (each sulfa drug).....5.00 C
28) Water quality screen (CH, OP, Carbamates, Herbicides, Lead).....100.00 C
29) Total dissolved solids (Water).....5.00 C
30) Specific gravity (Water).....5.00 C
31) Polychlorinated biphenyls (PCB).....50.00 C
32) Sugar analysis (each).....20.00 C
33) Ethylene glycol.....20.00 C
34) Fiber.....5.00 C
35) Feed particle size.....5.00 C
36) Total suspended solids.....5.00 C

(Source: Amended at 23 Ill. Reg. 383, effective 1/1/99)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 75

BOVINE BRUCELLOSIS

Section

75.5	Definitions	
75.7	Incorporation by Reference	
75.10	Official Classification of the Results of the Brucellosis Blood Test	
75.15	Permits to Conduct Official Brucellosis Tests	
75.20	Reports Required	
75.30	Tests Conducted at State Expense or for Interstate or Export Shipment	
75.40	Tests Conducted at Owner's Expense for Intrastate Movement (Repealed)	
75.50	Indemnity	
75.60	Identification of Cattle or Bison	
75.70	Herds Revealing Reactors	
75.80	Sale of Suspects and Negative Animals From Quarantined Herds	
75.90	Release of Herds or Cattle or Bison Under Quarantine	
75.100	Herds Revealing Suspects Only	
75.110	Identification Tags	
75.120	Requirements for Establishing and Maintaining Certified	
	Brucellosis-Free Herds of Cattle or Bison	
75.130	Feeding or Grazing Cattle	
75.140	Sale of Quarantined Feeding or Grazing Cattle	
75.150	Cattle or Bison for Immediate Slaughter	
75.160	Female Cattle--Beef Breeds--18 Months and Over	
75.170	Release of Feeding or Grazing Cattle from Quarantine	
75.180	Dairy or Breeding Cattle or Bison	
75.190	Additional Requirements on Cattle and Bison from States Designated as	
	Class B and Class C States	
75.200	Slaughter Cattle and Bison from Class B or Class C States	
75.210	Official Calfood Vaccination	
75.220	Recognition of Brucellosis State Status	
TABLE A	Brucellosis Standard Plate Test of Officially Vaccinated Cattle	
	and Bison (Repealed)	
TABLE B	Brucellosis Standard Plate Test of Non-Vaccinated Cattle and Bison	
	(Repealed)	

AUTHORITY: Implementing and authorized by the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30].

SOURCE: Regulations Relating to Bovine Brucellosis, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 6, 1972, effective December 16, 1972; filed June 20, 1973, effective June 20, 1973; filed December 14, 1973, effective December 24, 1973; filed

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

August 19, 1975, effective August 29, 1975; filed March 12, 1976, effective March 22, 1976; filed June 21, 1976, effective July 1, 1976; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 55, effective June 15, 1978; amended at 3 Ill. Reg. 34, p. 96, effective August 24, 1979; amended at 5 Ill. Reg. 720, effective January 2, 1981; codified at 5 Ill. Reg. 10453; amended at 7 Ill. Reg. 1737, effective January 28, 1983; amended at 7 Ill. Reg. 1733, effective February 2, 1983; amended at 8 Ill. Reg. 5891, effective April 23, 1984; amended at 9 Ill. Reg. 4483, effective March 22, 1985; amended at 9 Ill. Reg. 19647, effective January 1, 1986; amended at 10 Ill. Reg. 9741, effective May 21, 1986; amended at 11 Ill. Reg. 10169, effective May 15, 1987; amended at 12 Ill. Reg. 3386, effective January 22, 1988; amended at 13 Ill. Reg. 3636, effective March 13, 1989; amended at 14 Ill. Reg. 1911, effective January 19, 1990; amended at 18 Ill. Reg. 1833, effective January 24, 1994; amended at 20 Ill. Reg. 1509, effective January 12, 1996; amended at 20 Ill. Reg. 16181, effective January 1, 1997; amended at 21 Ill. Reg. 17040, effective January 1, 1998; amended at 23 Ill. Reg. 1370, effective JAN 1 1999.

Section 75.5 Definitions

The definitions for the rules of this Part shall be as stated in 8 Ill. Adm. Code 20.1. The following definition shall also apply:

"Act" means the Illinois Bovine Brucellosis Eradication Act [510 ILCS 301].

"Registered animal" means an animal for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the bovine species, and for which individual registration certificates are issued and recorded by such breed association. The breed associations recognized by the Department are those recognized by the United States Department of Agriculture (9 CFR 51.1, 1998 ~~1997~~).

(Source: Amended at 23 Ill. Reg. 337, effective JAN 1 1999)

Section 75.10 Official Classification of the Results of the Brucellosis Blood Test

- a) The official tests and classification of results for the brucellosis blood and milk tests shall be as prescribed in the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, May 6, 1992, as amended February 2, 1993 and June 16, 1994) and the United States Department of Agriculture and/or 9 CFR 78.1 [1998] ~~(1997)~~.
- b) The card (Buffered Brucella Antigen) test and Buffered Acidified Plate

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Antigen (BAPA) test shall be the official tests used at licensed livestock auction markets in the State. The CITE (Registered) test shall be used as an optional supplemental test whenever the card test is used.

- c) The official brucellosis test for cattle or bison imported into Illinois shall be one conducted at an approved laboratory.

(Source: Amended at 23 Ill. Reg. 337, effective JAN 1 1999)

Section 75.60 Identification of Cattle or Bison

- a) All purebred or crossbred cattle or bison subject to registration vaccinated with brucella abortus vaccine shall be identified on the report of vaccination by their registration number, or dam's registration number, or record association approved individual tattoo or microchip. All grade or not permanently identified cattle or bison so vaccinated shall be ear tagged in the right ear with an official identification tag. In addition to the above identification, all animals shall be identified at the time of vaccination by a tattoo in the right ear. When using a Strain 19 vaccine, the tattoo shall show the quarter and year of vaccination and the letter "V" in the Federal shield. The number of the quarter shall precede the letter "V" in the shield and the last figure of the year shall follow the letter "V" in the shield, as for example, 4V7--"4" means the last quarter (Oct., Nov., Dec.) of the year, "V" means vaccinated, and "7" means the year (example 1997). When using a RB-51 vaccine ~~(cattle-only)~~, the tattoo shall show the letter "R", then the Federal shield followed by the last number of the year the animal was vaccinated (example, RV6 would be an animal vaccinated with the RB-51 vaccine in 1996).

- b) All cattle or bison, except permanently identified purebred or crossbred animals, tested for brucellosis in the State of the Illinois shall be identified by an official ear tag placed in the right ear, which tag shall bear a prefix number or letter followed by the number on the face of the tag, and on the reverse side shall bear the word "Illinois."

- c) Purebred or crossbred registered cattle or bison may be identified for test or vaccination by the purebred or crossbred registration number or individual registration breed tattoo or microchip.

(Source: Amended at 23 Ill. Reg. 337, effective JAN 1 1999)

Section 75.70 Herds Revealing Reactors

- a) The entire herd shall be placed under quarantine and the reactor animals shall be immediately isolated from the remainder of the herd. Reactors shall be shipped for slaughter to a public stockyards, or a

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marketing center, ~~a licensed livestock auction market~~ or directly to a recognized slaughtering establishment, accompanied by United States Department of Agriculture VS Form 1-27 Permit For Movement of Animals and shipment reported to the Department. Reactors shall not be diverted from the destination listed on the VS Form 1-27, and any other shipping forms must accompany the cattle or bison to their destination. The buyer of such animals must also ensure that the VS Form 1-27 and any other shipping forms are given to the driver transporting the animals to their destination.

- b) All reactors shall be reactor tagged and branded by an accredited veterinarian or a veterinarian in the employ of the Department or the Animal and Plant Health Inspection Service within 10 days after of report by the laboratory. ADP Form 1-23 (Indemnity Claim for Cattle Slaughtered) shall be submitted in duplicate. Such reactor animals shall be shipped within 15 days after tagging and branding.

(Source: Amended at 23 Ill. Reg. 397, effective JAN 1 1999)

Section 75.80 Sale of Suspects and Negative Animals From Quarantined Herds

Suspects or negative exposed animals from herds under quarantine may be shipped by the owner direct to a recognized slaughtering establishment, a public stockyards, marketing center or to a licensed livestock auction market, accompanied by Federal Form VS 1-27 to be sold for slaughter only and shipment reported to the Department. Suspects shall not be diverted from the destination listed on the VS Form 1-27, and any other shipping forms must accompany the cattle or bison to their destination. The buyer of such animals must also ensure that the VS Form 1-27 and any other shipping forms are given to the driver transporting the animals to their destination. Such cattle or bison are to be identified by an ear tag supplied by the Department and by branding with a hot iron the letter "S" on the left hip in letters not less than 2 nor more than 3 inches in height, before the animals leave the premises where they are quarantined, except that cattle or bison for slaughter shall be exempt from the "S" branding requirements of this regulation when moved direct from a feedlot on the quarantined premises to a recognized slaughtering establishment in a vehicle which has been sealed by a Department employee, or a person designated by the Department.

(Source: Amended at 23 Ill. Reg. 397, effective JAN 1 1999)

Section 75.120 Requirements for Establishing and Maintaining Certified Brucellosis-Free Herds of Cattle or Bison

Certified brucellosis-free herds shall be established and maintained in accordance with the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite

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114, 1610 Forest Avenue, Richmond, Virginia 23228; May 6, 1992, as amended February 2, 1993 and June 16, 1994) and the United States Department of Agriculture and/or 9 CFR 78.1 (1998) (1997).

(Source: Amended at 23 Ill. Reg. 397, effective JAN 1 1999)

Section 75.160 Female Cattle--Beef Breeds--18 Months and Over

Female cattle of the beef breeds 18 months of age and over, for feeding or grazing purposes only, may enter Illinois ~~or may be shipped from public stockyards within the State~~ if they are accompanied by an official interstate health certificate showing:

- a) Negative brucellosis blood test conducted at a state State or Federal Laboratory within 30 days prior to entry, OR
b) The animals to be under 24 months of age and officially calfhood vaccinated against brucellosis, OR
c) Originated from a Brucellosis Class Free State or country or a Certified Brucellosis-Free Herd.

(Source: Amended at 23 Ill. Reg. 397, effective JAN 1 1999)

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- 1) Heading of the Part: Definitions
- 2) Code Citation: 8 Ill. Adm. Code 20
- 3) Section Numbers: Adopted Action:
20.1 Amended
- 4) Statutory Authority: Section 15 of the Illinois Swine Disease Control and Eradication Act [510 ILCS 100/15]; Section 15 of the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/15]; Section 15 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/15]; Section 18 of the Illinois Bovine Tuberculosis Eradication Act [510 ILCS 35/18]; Section 10 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/10]; Section 7 of the Illinois Swine Brucellosis Eradication Act [510 ILCS 95/7]; Section 12 of the Illinois Dead Animal Disposal Act [225 ILCS 610/12]; Section 2 of the Illinois Diseased Animals Act [510 ILCS 50/2]; Sections 8a and 11 of the Livestock Auction Market Law [225 ILCS 640/8a and 11]; Section 2.3 of the Poultry Inspection Act [510 ILCS 85/2.3]; Section 5 of the Illinois Pseudorabies Control Act [510 ILCS 90/5].

5) Effective Date of amendments: January 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15801, September 4, 1998.

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Difference between proposal and final version: As requested by JCAR staff, the Department defined "approved eartag".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: "Auction market" is being added to the definition of "consignment" as information to be included on the

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consignment document, if applicable. The definitions of "feeder female cattle" and "feeder swine" are being clarified. The definition of "health certificate" is being amended to require the complete mailing address of both the consignor and the consignee. References to the Code of Federal Regulations are being updated to the 1998 edition of that publication. The definition of "state inspector" is amended to reflect the title currently in use by the Department. The reference to "National Stockyards" is being deleted as the stockyards are closed.

16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS

CHAPTER I: DEPARTMENT OF AGRICULTURE

SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS

(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 20

DEFINITIONS

Section

20.1 Definitions

AUTHORITY: Implementing and authorized by Section 15 of the Illinois Swine Disease Control and Eradication Act [510 ILCS 100/15]; Section 15 of the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/15]; Section 15 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/15]; Section 18 of the Illinois Bovine Tuberculosis Eradication Act [510 ILCS 35/18]; Section 10 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/10]; Section 7 of the Illinois Swine Brucellosis Eradication Act [510 ILCS 95/7]; Section 12 of the Illinois Dead Animal Disposal Act [225 ILCS 610/12]; Section 2 of the Illinois Diseased Animals Act [510 ILCS 50/2]; Sections 8a and 11 of the Livestock Auction Market Law [225 ILCS 640/8a and 11]; Section 2.3 of the Poultry Inspection Act [510 ILCS 85/2.3]; and Section 5 of the Illinois Pseudorabies Control Act [510 ILCS 90/5].

SOURCE: Regulations Relating to the Bureau of Animal Health and the Bureau of Animal Welfare, Definitions, filed January 27, 1966, effective January 27, 1966; amended May 3, 1972, effective May 14, 1972; codified at 5 Ill. Reg. 10437; amended at 8 Ill. Reg. 5915, effective April 23, 1984; amended at 9 Ill. Reg. 18404, effective November 19, 1985; amended at 10 Ill. Reg. 9747, effective May 21, 1986; amended at 12 Ill. Reg. 8275, effective May 2, 1988; amended at 18 Ill. Reg. 1844, effective January 24, 1994; amended at 20 Ill. Reg. 1522, effective January 12, 1996; amended at 23 Ill. Reg. 4042, effective Jan 1 1999.

Section 20.1 Definitions

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture.

"Animal and Plant Health Inspection Service" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

"Approved eartag" means an eartag that has been approved for use either by the U.S. Department of Agriculture or the Illinois Department of Agriculture. Information concerning manufacturers of

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approved eartags may be obtained from the Department.

"Approved health certificate" means one that has been so endorsed by the Animal Health Official of the state of origin.

"Approved laboratory" means one of the animal disease laboratories operated by the Department, the State-Federal Serology Laboratory, the Laboratories of Veterinary Diagnostic Medicine at the College of Veterinary Medicine, University of Illinois, or a laboratory approved by the Animal Health Official of the exporting state to conduct official tests.

"Brucellosis" means the disease wherein an animal is infected with *Brucella* micro-organisms irrespective of the occurrence or absence of clinical signs.

"Certified Brucellosis-Free Herd" means one in which at least two annual negative official tests for brucellosis have been conducted on all animals in the herd 6 months of age or over and for which a certificate has been issued by the Animal Health Official of the state of origin and the Animal and Plant Health Inspection Service.

"Consignment" means a document issued by the owner or shipper of livestock, designating the name of the owner and/or shipper; place of origin; stockyard, auction market, packing plant, or marketing center of destination; date of shipment; and number and description of livestock, certified to by the owner or shipper, kept in possession of the carrier and delivered to a stockyard, auction market, packing plant, or marketing center of destination upon acceptance. This consignment shall be held by the stockyard, auction market, packing plant, or marketing center for a period of not less than six months for inspection by the legally authorized officials of the United States Department of Agriculture and the Department and other officials having police powers.

"Contagious disease" means a specific infectious disease which is readily transmitted from host to host by direct contact or by means of intermediate hosts.

"Department" or "Department of Agriculture", unless otherwise indicated, means the Department of Agriculture of the State of Illinois.

"Director" means the Director of the Illinois Department of Agriculture.

"Federal Inspector" means an Animal Health Technician employed by the Animal and Plant Health Inspection Service of the United States

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Department of Agriculture.

"Feeder female cattle" means female bovines of the beef breeds 6-18 months of age that have not been tested for brucellosis prior to sale.

"Feeder swine" or "feeding swine" means swine under four months of age, weighing less than 180 pounds ~~slaughter-weight~~ and not requiring testing as breeding swine or swine consigned directly to slaughter.

"Health certificate" or "certificate of health" or "interstate health certificate" or "certificate of veterinary inspection" means a legible record, made on an official form of the state of origin, or the Animal and Plant Health Inspection Service, and issued by an accredited veterinarian of the state of origin, a veterinarian in the employ of the Animal and Plant Health Inspection Service, or a veterinarian in the employ of the United States Armed Services, which shows that the animals or birds listed thereon meet the health requirements of the state of destination. The health certificate shall contain the name and complete mailing address of the consignor, the name and complete mailing address of the consignee, and an accurate description or identification of the animals or birds involved, and shall also indicate the health status of the animals or birds, including the dates and results of required tests and dates of vaccination, if any. A health certificate is valid for 30 days after issuance, except when specific exemptions are made for exhibition livestock. The two copies of the health certificate that are labeled "Division Copy" shall be submitted to the Department within 30 days after issuance.

"Infected animal", "positive animal" or "reactor" means an animal which has given a positive reaction to any official test or in which evidence of the disease has been found in the body or in the body discharges, when the animal has been classified as such by a State or Federal epidemiologist.

"Infectious disease" means the reaction resulting from the introduction into the body of a specific disease-producing organism or its toxic product.

"Infestation" or "infested with" means the invasion of the body by animal parasites.

"Market Cattle Identification Program" means the brucellosis testing program of market cattle that is part of the National Brucellosis Eradication Program (9 CFR 78 [1998] (1995)). Incorporation by reference does not include any later amendments or editions beyond the date specified. In accordance with the authority stated in the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/2], the Department has entered into a cooperative agreement with the United

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States Department of Agriculture to identify brucellosis infected herds.

"Marketing Center" means a licensed livestock auction market that has been designated as a "Specifically Approved Stockyard" by the Department and the United States Department of Agriculture (9 CFR 78.44 [1998] (1995)). Incorporation by reference does not include any later amendments or editions beyond the date specified. Marketing Centers shall enter into a Memorandum of Understanding with the United States Department of Agriculture and the Department and comply with the standards set forth in that Memorandum.

"Negative exposed cattle" means a test negative animal in an infected herd.

"Official test" means any test for the detection of a reportable disease in Illinois as defined in 8 Ill. Adm. Code 85.10, approved by the Department and the Animal and Plant Health Inspection Service, which is based on a standard test that is approved by the American Association of Veterinary Laboratory Diagnosticians and the United States Department of Agriculture and conducted in an approved laboratory.

"Public stockyard" means a stockyard where trading in livestock is conducted, where yarding, feeding, and watering facilities are provided by the stockyard, transportation, or similar company, and where State and/or Federal inspection is maintained for the inspection of livestock for communicable disease, such as ~~National--Stockyards located--at--East--St--Boris--and~~ Peoria Union Stockyards located at Peoria.

"Quarantine" means a condition in which one or more animals shall be kept separate and apart from and not allowed to come in contact in any way with other animals.

"Recognized slaughtering establishment" means an establishment where slaughtering is conducted under Federal or State inspection.

"Restriction" or "restricted" means a condition in which one or more animals shall be kept on certain designated premises and shall not be allowed to come in contact in any way with animals from other premises.

"Ring test" or "brucellosis ring test (BRT)" means the diagnostic test of milk or cream to detect the presence of brucellosis in the herd in which such milk or cream sample was produced.

"State Inspector" means an ~~Animal--Health--Inspector--or~~ Animal and

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Animal Products Investigator employed by the Illinois Department of Agriculture.

"Suspicious animal" or "suspect" means an animal that has given a positive reaction to an official test and whose test results are less than that which would result in a classification of reactor.

"Tuberculosis-free Accredited Herd" means one for which a certificate of accreditation has been issued by the Animal Health Official of the state of origin and the Animal and Plant Health Inspection Service.

(Source: Amended at 23 Ill. Reg. 1.04, effective JAN 1 1991)

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1) Heading of Part: Diseased Animals

2) Code Citation: 8 Ill. Adm. Code 85

3) Section Numbers: Adopted Action:
 85.5 Amended
 85.15 Amended
 85.20 Amended
 85.55 Amended
 85.75 Amended
 85.80 Amended
 85.100 Amended
 85.115 Amended
 85.120 Amended

4) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65]

5) Effective Date of amendments: January 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15808, September 4, 1998.

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Difference between proposal and final version: In Section 85.5, amendments are made in the first sentence of the definition of "Exposed to" for clarification: "that" is deleted after "means"; and "an" is added before "environment".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements..

13) Will these amendments replace an emergency amendment currently in effect?
 No

14) Are there any amendments pending on this Part? No

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15) Summary and Purpose of Amendments: In Section 85.5, the Department is adding a definition for the term "exposed to" which includes an exemption for animals exposed to other animals infected with John's disease. References to the Code of Federal Regulations are being updated to the most recent 1998 version of that publication. The term "auction market" is being added to Sections 85.20 and 85.100. The Voluntary Scrapie Flock Certification Program Standards is being adopted in Section 85.55, and restrictions on scrapie source or infected flocks are adopted. Goats are added to Section 85.55. Restrictions on sheep with club lamb fungus (sheep ringworm) are added in Section 85.80. A requirement of a health certificate for cervidae entering Illinois is being added to Section 85.120, along with the requirement that the animals be identified by individual identification (approved ear tag, tattoo, or microchip). Additional requirements for cervidae are being added to Section 85.120 regarding the information that must accompany cervidae entering Illinois and chronic wasting disease.

16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
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(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85

DISEASED ANIMALS

Section	
85.5	Definitions
85.7	Incorporation by Reference
85.10	Reportable Diseases
85.12	Contagious or Infectious Diseases
85.15	Truck Cleaning and Disinfection
85.20	Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers
85.25	Sale of Livestock Quarantined Because of Disease
85.30	Identification Ear Tags for Livestock
85.35	Identification Tags Not to be Removed
85.40	Livestock for Immediate Slaughter Not to be Diverted En Route
85.45	Anthrax
85.50	Goats
85.55	Scrapie in Sheep and Goats
85.60	Bluetongue
85.65	Sheep Foot Rot (Repealed)
85.70	Cattle Scabies
85.75	Cattle Scabies--Additional Requirements on Cattle From Certain Designated Areas
85.80	Sheep
85.85	Diseased Animals
85.90	Copy of Health Certificate Shall Be Furnished
85.95	Requests for Permits
85.100	Consignments to Stockyards, Auction Markets, Recognized Slaughtering Centers, or Marketing Centers
85.105	Obligation of Transportation Company and Truck Operators
85.110	Additional Requirements on Cattle From Designated States
85.115	Salmonella enteritidis serotype enteritidis
85.120	Cervidae
85.125	Ratites
85.130	Vesicular Stomatitis
85.135	Requirements for Establishing and Maintaining a Herd or Flock Under the Voluntary Paratuberculosis (John's disease) Certification Program

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65].

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SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective August 17, 1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. 15313, effective September 10, 1990; amended at 16 Ill. Reg. 11756, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 14052, effective August 16, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1850, effective January 24, 1994; emergency amendment at 19 Ill. Reg. 10734, effective July 10, 1995, for a maximum of 150 days; emergency expired December 17, 1995; amended at 20 Ill. Reg. 276, effective January 1, 1996; emergency amendment at 20 Ill. Reg. 6581, effective April 30, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13039, effective September 25, 1996; amended at 21 Ill. Reg. 17049, effective January 1, 1998; amended at 23 Ill. Reg. 411517, effective JAN 1 1999.

Section 85.5 Definitions

Definitions for the rules of this Part are located in the general definitions Section (8 Ill. Adm. Code 20.1) and apply to the rules of this Part. The following definitions shall also apply to the rules of this Part:

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture (9 CFR 160, 161 and 162; 1998 #996).

"Exposed to" means an animal that has come in contact with another animal or an environment that is capable of transmitting a contagious, infectious or reportable disease. An animal will no longer be considered as "exposed to" when it is beyond the standard incubation time for the disease and the animal has been tested negative for the specific disease or there is no evidence that the animal is contagious, except for animals exposed to John's disease. Animals originating from a herd where John's disease has been diagnosed will be considered no longer "exposed to" with a negative test. The negative test must have been conducted within 30 days prior to the sale or movement.

"Recognized slaughtering center" means an establishment where slaughtering is conducted under Federal or State inspection.

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(Source: Amended at 23 Ill. Reg. 411517, effective JAN 1 1999.)

Section 85.15 Truck Cleaning and Disinfection

Any truck or other conveyance in which diseased livestock is transported shall be cleaned and disinfected immediately after the diseased livestock is unloaded as prescribed in the Code of Federal Regulations (9 CFR 71.7, 71.10 - 71.12; 1998 #997).

(Source: Amended at 23 Ill. Reg. 411517, effective JAN 1 1999.)

Section 85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers

No person, firm, or corporation shall remove from any public stockyards, auction markets or marketing centers any sick, diseased, or crippled animals for the purpose of producing meat to be sold for human consumption, except in cases where the Department releases such animals after antemortem inspection, provided that this restriction shall not apply to any recognized slaughtering center.

(Source: Amended at 23 Ill. Reg. 411517, effective JAN 1 1999.)

Section 85.55 Scrapie in Sheep and Goats

- a) No sheep or goats which are known to be from an infected or source flock as defined in the Voluntary Scrapie Flock Certification Program Standards as approved by the United States Department of Agriculture, effective October 17, 1997 ~~infected-with scrapie~~ and no progeny of sheep or goats known to be from an infected or source flock ~~infected with scrapie~~ shall be transported or moved into or within the State of Illinois, except as provided in 8 Ill. Adm. Code 40.190(c).
- b) Scrapie monitored herds may be established and maintained in accordance with the Voluntary Scrapie Flock Certification Program Standards.
- c) When a herd has been designated as an infected or source flock, the flock will be placed under quarantine and will remain under quarantine until the flock has been depopulated or enters into the Voluntary Scrapie Flock Certification Program. No animals will be allowed to move from the quarantined flock except for slaughter or medical treatment or examination.

(Source: Amended JAN 1 1999 at 23 Ill. Reg. 411517, effective JAN 1 1999.)

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Section 85.75 Cattle Scabies -- Additional Requirements on Cattle from Certain Designated Areas

- a) A prior permit must be obtained from the Department before cattle, except those consigned direct to slaughter, may enter Illinois from certain designated areas determined to have high incidence of cattle scabies. The Director of the Department shall have authority to specify the designated areas from which movement of cattle into Illinois will be restricted.
- b) Cattle from such areas, except those consigned to a recognized exhibition and moved from Illinois following exhibition (county and State fairs, other State-supported exhibitions, and breed registry exhibitions); dairy cattle; or those consigned direct to slaughter, shall be dipped for cattle scabies within 10 days prior to entry or treated in accordance with the procedures as set forth in 9 CFR 73.12 (1998 1997).
- c) Each such animal shall be treated with a solution of approved acaricide and water or other method of treatment approved by the United States Department of Agriculture (9 CFR 73.10 and 73.12; 1998 1997).

(Source: Amended at 23 Ill. Reg. 11.1.1997 effective 1.1.1997)

Section 85.80 Sheep

- a) All sheep entering Illinois for breeding, exhibition or feeding purposes, except for sheep consigned directly to a livestock auction market, shall be accompanied by an official health certificate. The health certificate shall indicate the sheep were examined within 60 days prior to entry and found free of any infectious or communicable disease and that they have not recently been exposed thereto.
- b) Any sheep which shows lesions of contagious ethyma (sore mouth) or club lamb fungus disease (sheep ringworm) shall not be exhibited in the State and must be removed immediately from the exhibition area.

(Source: Amended at 23 Ill. Reg. 11.1.1997 effective 1.1.1997)

Section 85.100 Consignments to Stockyards, Auction Markets, Recognized Slaughtering Centers, or Marketing Centers

- a) All out-of-state livestock consigned to a public stockyard, an auction market, recognized slaughtering center, or marketing center shall be accompanied from point of origin by a permit issued by the Department, or by a consignment issued by the owner or shipper of the livestock, designating the name of the owner or shipper, place of origin, public stockyard, recognized slaughtering center, or marketing center of

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destination, date of shipment, and number and description of livestock and shall not be diverted en route.

- b) A copy of the consignment shall be held by the public stockyard, recognized slaughtering center, or marketing center for a period of not less than 6 months for inspection by legally authorized officials of the United States Department of Agriculture, and the Illinois Department of Agriculture, and other officials having police powers. [225 ILCS 640/1]

(Source: Amended at 23 Ill. Reg. 11.1.1997 effective 1.1.1997)

Section 85.115 Salmonella enteritidis serotype enteritidis

- a) The United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry. The rules pertaining to Salmonella enteritidis serotype enteritidis located at 9 CFR 82.30-82.36 (1998 1997) are hereby adopted for the State of Illinois. The flocks affected by these regulations are those identified in 9 CFR 82.31.
- b) All flocks found to be infected with Salmonella enteritidis serotype enteritidis shall be quarantined. The quarantine shall remain in effect until the flock has been depopulated and premises disinfected as prescribed in 9 CFR 82.32(c) or the entire flock is tested negative for Salmonella enteritidis serotype enteritidis in accordance with the provisions of 9 CFR 82.32(e).
- c) Interstate movement of poultry, eggs, equipment and manure from infected or test flocks shall be as specified in 9 CFR 82.33. Interstate movement requirements shall be the same as interstate movement requirements.
- d) If a flock is determined to be an infected flock as defined in 9 CFR 82.32(c), the Department shall pay indemnity if State funds are available and all of the following conditions are met:
 - 1) The infected flock is implicated through epidemiological evidence in a human disease outbreak;
 - 2) The flock owner voluntarily agrees to depopulate with appropriate State indemnity;
 - 3) The entire flock which is to be depopulated shall have originated from a flock that is classified "U.S. S. Enteritidis Monitored" for egg type birds and "U.S. S. Enteritidis Clean" for meat type birds under the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145 and 147; 1998 1997);
 - 4) The flock owner must have been feeding the infected flock in accordance with the provisions of the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145.23(d); 1998 1997);
 - 5) The infected flock shall be slaughtered in accordance with 9 CFR 82.33(b). Proof of kill will be reported to the Department by the

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meat and poultry inspector of the slaughtering establishment where the infected poultry is slaughtered;

- 6) The premises has been disinfected in accordance with 9 CFR 82.32(c); and

- 7) Replacement poultry shall be from flocks that are classified "U.S. S. Enteritidis Monitored" or "U.S. S. Enteritidis Clean" under the National Poultry Improvement Plan and Auxiliary Provisions.

- e) The amount of indemnity paid, based on the availability of State funds, shall be 75 percent of the fair market value and the health thereof at the time of slaughter, minus the salvage value. The following conditions shall be considered when determining the fair market value and health of the infected flock:

- 1) Initial purchase price of each bird;
- 2) Age of the bird and its egg production capabilities or value for producing progeny; and
- 3) Feed and veterinary medical production costs as justified by documentation by the flock owner in the form of sales receipts and veterinary bills.

- f) The Department and the infected flock owner must agree upon the value of the poultry destroyed, and in the case as agreement cannot be made, indemnity will not be paid for the flock.

(Source: Amended at 23 Ill. Reg. 611.43 effective JAN 1 1999)

Section 85.120 Cervidae

- a) Elk entering Illinois shall be negative to a brucellosis card test or PCFTA test conducted within 60 days on all animals 6 months of age and over.

- b) Certified brucellosis-free cervid herds shall be established and maintained in accordance with the Brucellosis Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228; 1997) and the United States Department of Agriculture.

- c) All cervidae entering Illinois must also be in compliance with the Illinois Wildlife Code [520 ILCS 5].

- d) All cervidae entering Illinois must be accompanied by a permit from the Department and Certificate of Veterinary Inspection that:

- 1) has been issued by an accredited veterinarian of the State of origin or a veterinarian in the employ of the United States Department of Agriculture;
- 2) is approved by the Animal Health Official of the state of origin;
- 3) shows that the cervidae are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereto;
- 4) shows that the cervidae are not originating from a herd under

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quarantine for any contagious, infectious or communicable disease;

- 5) lists the cervid's unique individual identification (approved ear tag, tattoo or microchip);

- 6) shows the permit obtained from the Department:

- A) Applicant for permit shall furnish the following information to the Department:

- i) Name and post office mailing address of Illinois destination;

- ii) Name and post office mailing address of consignor; and
- iii) Number of cervidae in shipment.

- B) Grounds for refusal to issue permit are:

- i) Violation of the Act or this Part;

- ii) Presence of a disease that might endanger the Illinois livestock industry;

- iii) Refusal to provide required information for the permit.

- C) Permits will be issued by telephoning or writing the Department.

- e) Chronic wasting disease (CWD). Any cervid dying from an unknown cause and that has exhibited a neurological disorder must have its brain removed for CWD evaluation. Any cervid exhibiting symptoms of CWD must be kept separate and apart from other members of the herd and will be quarantined until the animal is either destroyed or determined not to have CWD. Animals quarantined for CWD will be subject to periodic inspection by Department personnel.

(Source: Amended at 23 Ill. Reg. 611.43 effective JAN 1 1999)

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- 1) Heading of Part: Feeder Swine Dealer Licensing
- 2) Code Citation: 68 Ill. Adm. Code 590
- 3) Section Numbers: Adopted Action:
590.60 Amended
- 4) Statutory Authority: Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620]
- 5) Effective Date of amendments: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15817, September 4, 1998.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements.
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Section 590.60 is being amended to state that Department of Agriculture inspectors can make photocopies of all licensed feeder swine dealer records.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield Illinois 62794-9281
217/785-5713
Facsimile: 217/785-4505

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The full text of Adopted Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER II: DEPARTMENT OF AGRICULTURE

PART 590

FEEDER SWINE DEALER LICENSING

Section

- 590.5 Definitions
 590.10 Permanent Place of Business
 590.20 Agents (Repealed)
 590.30 Imported Feeder Swine
 590.40 Ear Tagging (Repealed)
 590.50 Duties of a Licensed Swine Dealer
 590.60 Maintenance of Records
 590.70 Surety Bonds (Repealed)
 590.80 Surety Bonds and Other Pledged Securities
 590.90 Feeder Swine Purchase and Movement Restrictions
 590.100 License Application

AUTHORITY: Implementing and authorized by the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620].

SOURCE: Rules and Regulations Relating to Feeder Swine Dealer Licensing Act, filed January 17, 1972, effective January 27, 1972; filed July 18, 1972, effective July 28, 1972; Authority Note amended at 2 Ill. Reg. 34, p. 177, effective August 24, 1978; codified at 5 Ill. Reg. 10571; amended at 10 Ill. Reg. 10087, effective May 21, 1986; amended at 18 Ill. Reg. 1865, effective January 24, 1994; amended at 20 Ill. Reg. 1532, effective January 12, 1996; amended at 21 Ill. Reg. 17068, effective January 1, 1998; amended at 23 Ill. Reg. 1600, effective JAN 1 1999.

Section 590.60 Maintenance of Records

Records and premises shall be open during regular business hours for inspection by authorized Department inspectors. Department inspectors are authorized to make photocopies of any and all records as necessary.

(Source: Amended at 23 Ill. Reg. 1600, effective JAN 1 1999.)

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1) Heading of the Part: Hatcheries, Poultry Flocks, and Produce Thereof

2) Code Citation: 8 Ill. Adm. Code 55

3) Section Numbers: Adopted Action:
 55.10 Amended
 55.40 Amended
 55.45 Amended
 55.50 Amended
 55.90 Amended

4) Statutory Authority: Poultry Inspection Act [510 ILCS 85]

5) Effective Date of amendments: January 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15820, September 4, 1998.

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Difference between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no changes.

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: References to the Code of Federal Regulations are being updated to the 1998 edition of that publication.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Debbie Wakefield
 Address: Illinois Department of Agriculture
 State Fairgrounds
 Springfield, Illinois 62794-9281
 Telephone: 217/785-5713

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE
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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 55
HATCHERIES, POULTRY FLOCKS, AND PRODUCE THEREOF

Section	
55.5	Definitions
55.10	Shipments of Poultry or Hatching Eggs
55.20	Infected Flock
55.30	Classification of Flock
55.40	Breeding Poultry
55.45	Turkeys
55.50	Persons Who May Perform the Test
55.60	Inspection
55.70	Show and Exhibition Birds
55.80	Banding
55.90	Sanitation
55.100	Administrative Hearing

AUTHORITY: Implementing and authorized by the Poultry Inspection Act [510 ILCS 85].

SOURCE: Regulations Relating to Hatcheries, Poultry Flocks, and the Produce Thereof, filed January 17, 1972, effective January 27, 1972; amended at 3 Ill. Reg. 33, p. 343, effective August 17, 1979; codified at 5 Ill. Reg. 10446; amended at 8 Ill. Reg. 5929, effective April 23, 1984; amended at 9 Ill. Reg. 18423, effective November 19, 1985; amended at 16 Ill. Reg. 11766, effective July 8, 1992; amended at 20 Ill. Reg. 1537, effective January 12, 1996; amended at 23 Ill. Reg. 403, effective 1/1/99.

Section 55.10 Shipments of Poultry or Hatching Eggs

- a) All shipments of poultry or hatching eggs entering or moving within Illinois shall:
 - 1) be accompanied by a "Report of Sales of Hatching Eggs, Chicks and Poults" (VS Form 9-3); or
 - 2) be accompanied by a Certificate of Veterinary Inspection approved by the chief livestock official of the state of origin which states that the poultry originated from a flock that has been tested for pullorum and typhoid diseases within one year and was free of reactors to these diseases.
- b) In addition to the above requirements, all poultry or hatching eggs entering or moving within Illinois for table egg production shall originate from a flock that meets the U.S. S. Enteritidis requirements under the National Poultry Improvement Plan (9 CFR 145, 1998 1995) and

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Auxiliary Provisions on National Poultry Improvement Plan (9 CFR 147, 1998 1995). Incorporation of federal rules does not include later amendments or editions.

(Source: Amended at 23 Ill. Reg. 623, effective JAN 1 1999)

Section 55.40 Breeding Poultry

a) All breeding poultry (20 weeks of age or older) must be tested and comply with the National Poultry Improvement Plan (9 CFR 145 (1998) 1995) and Auxiliary Provisions on National Poultry Improvement Plan (9 CFR 147 (1998) 1995) for pullorum-typhoid. The Department participates in the National Poultry Improvement Plan as an Official State Agency cooperating through a Memorandum of Understanding. Incorporation of federal rules does not include later amendments or editions.

b) The Department only requires compliance with the expressed requirements of the National Poultry Improvement Plan in order for a participant to be in compliance with the Plan, except as provided for in this Part.

(Source: Amended at 23 Ill. Reg. 623, effective JAN 1 1999)

Section 55.45 Turkeys

a) All turkeys entering Illinois and not consigned to slaughter must originate from flocks or hatcheries that are officially classified as U. S. Mycoplasma Gallisepticum Clean in accordance with the provisions of the National Poultry Improvement Plan (9 CFR 145.43(c) (1998) 1995) or be negative to a test for Mycoplasma gallisepticum within 30 days prior to entry. Incorporation by reference shall not include later amendments or editions beyond the date specified.

b) Hatching eggs entering Illinois shall originate from hatcheries or flocks that are officially classified as U. S. Mycoplasma Gallisepticum Clean.

c) Turkeys and hatching eggs entering Illinois shall be accompanied by a health certificate which shall indicate either that the turkeys are negative to a test for Mycoplasma gallisepticum or that they originated from U. S. Mycoplasma Gallisepticum Clean flocks or hatcheries.

(Source: Amended at 23 Ill. Reg. 623, effective JAN 1 1999)

Section 55.50 Persons Who May Perform the Test

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Persons officially approved by the Department may perform the stained-antigen, rapid, whole-blood test for pullorum-typhoid. Approval shall be given by the Department after the applicant has orally described and physically demonstrated proper testing procedures (found at 9 CFR 147.3 (1998) 1995) to Department inspectors, veterinarians or laboratory personnel and has correctly interpreted test results. Each individual authorized to perform the test in the State will be sent a card showing their authorization to perform the test.

(Source: Amended at 23 Ill. Reg. 623, effective JAN 1 1999)

Section 55.90 Sanitation

Participants in the National Poultry Improvement Plan shall comply with the sanitation requirements prescribed in Subpart C of 9 CFR 147 (1998) 1995, except that the Department accepts any fumigant that is registered by the United States Environmental Protection Agency and for which the manufacturer's label specifies the product is for egg sanitation or cleaning of poultry equipment.

(Source: Amended at 23 Ill. Reg. 623, effective JAN 1 1999)

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1) Heading of Part: Illinois Bovidae and Cervidae Tuberculosis Eradication Act

2) Code Citation: 8 Ill. Adm. Code 80

3) Section Numbers: Adopted Action:
80.130 Amended
80.140 Amended

4) Statutory Authority: Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35]

5) Effective Date of amendments: January 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15825, September 4, 1998.

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Difference between proposal and final version: Nonsubstantive editorial corrections are made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: In Section 80.130, the reference to the Code of Federal Regulations is being updated to the most recent edition (1998) of that publication. Types of identification for cervidae are being updated in Section 80.140. A change to the Uniform Methods and Rules for Tuberculosis-Free Cervidae Herds that requires two annual herd tests for newly assembled herds on premises where a tuberculosis herd has been depopulated is being adopted in Section 80.140.

16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield Illinois 62794-9281
217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER 1: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 80

ILLINOIS BOVIDAE AND CERVIDAE TUBERCULOSIS ERADICATION ACT

Section	Requirements for Illinois Tuberculosis-Free Accredited Cattle and Bison Herds
80.10	When Indemnity Will Be Paid on Tests
80.20	Herds Quarantined Because of Suspected Tuberculosis Infection
80.30	Identification Tags Not To Be Removed
80.40	Infected Herd Depopulation (Repealed)
80.50	Cattle for Immediate Slaughter (Repealed)
80.60	Feeding or Grazing Cattle (Repealed)
80.70	Female Cattle--Beef Breeds--18 Months and Over (Repealed)
80.80	Release of Quarantined Feeding or Grazing Cattle (Repealed)
80.90	Release of Feeding or Grazing Cattle from Quarantine (Repealed)
80.100	Dairy or Beef Cattle, Bison or Steers
80.110	Tuberculin Tests
80.120	Establishing and Maintaining Accredited Tuberculosis-Free Goat Herds
80.130	Cervidae

AUTHORITY: Implementing and authorized by the Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35].

SOURCE: Regulations Relating to Bovine Tuberculosis, filed January 17, 1972, effective January 27, 1972; filed June 21, 1976, effective July 1, 1976; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 1, effective June 15, 1978; codified at 5 Ill. Reg. 10455; amended at 7 Ill. Reg. 1742, effective January 28, 1983; amended at 8 Ill. Reg. 17809, effective October 1, 1984; amended at 9 Ill. Reg. 4503, effective March 22, 1985; amended at 9 Ill. Reg. 18432, effective November 19, 1985; emergency amendment at 11 Ill. Reg. 5326, effective March 13, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10183, effective May 15, 1987; amended at 12 Ill. Reg. 8295, effective May 2, 1988; amended at 13 Ill. Reg. 3676, effective March 13, 1989; amended at 14 Ill. Reg. 1931, effective January 19, 1990; amended at 15 Ill. Reg. 17070, effective January 1, 1998; amended at 23 Ill. Reg. effective JAN 1 1999.

Section 80.130 Establishing and Maintaining Accredited Tuberculosis-Free Goat Herds

- a) General Requirements
- 1) Accredited tuberculosis-free herd certificates, which shall be valid for one year, unless revoked in accordance with the

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procedures outlined in the Bovine Tuberculosis Eradication Uniform Methods and Rules, effective June 1997, Part III B, Accredited Herd Plan for Dairy Goats (9 CFR 77.1, 1998 1997), shall be issued by the Department. This incorporation by reference does not include any future editions or amendments beyond the date specified.

- 2) Certificates may be extended for a period of one year upon evidence of a negative herd retest and compliance with all requirements for maintenance of an accredited tuberculosis-free herd.
- 3) A "herd" shall be considered as including all animals 12 months of age and over and shall consist of at least 5 animals.
- 4) All animals in the herd shall be identified by registration number, individual tattoo, or ear tag.
- 5) All official tuberculin tests shall be conducted by an accredited veterinarian or a veterinarian in the employ of the Illinois Department of Agriculture or the United States Department of Agriculture.
- b) To Qualify for Accreditation
 - 1) Herds shall be accredited upon completion of 2 consecutive negative complete herd tests not less than 10 nor more than 14 months apart.
 - 2) If a reaction to the tuberculin test is disclosed, the veterinarian reading the test shall, within 24 hours, notify the Department by collect telephone call and make arrangements for a veterinarian trained in conducting the comparative cervical test to retest the animal within 10 days after the original injection. If the animal is identified as a reactor as a result of the comparative cervical test, personnel from either the Illinois Department of Agriculture or the United States Department of Agriculture will issue a quarantine, supervise disposition of reactor animals, and conduct additional tests on members of the herd.
- c) To Qualify for Reaccreditation
 - 1) A negative herd test conducted within 60 days prior to the anniversary date is required for continuous accreditation. Upon receipt of a negative herd test, the Department shall extend accreditation for 12 months from the anniversary date.
 - 2) If the annual test for reaccreditation is conducted within 60 days following the anniversary date, certification will be restored and the accreditation period will be 12 months from the anniversary date.
 - 3) If the annual test for reaccreditation is not conducted within 60 days following the anniversary date, accreditation is cancelled and reaccreditation requirements are then the same as for initial accreditation.
 - 4) If a reaction to the tuberculin test is disclosed at the time of the reaccreditation test, the procedure outlined in subsection

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(b)(2) of this Section shall be followed.

- d) Additions to Accredited Tuberculosis-Free Herds
- 1) Animals originating from other accredited herds may be added without tests.
 - 2) Animals originating from herds not accredited may be added, provided they are negative to an official test for tuberculosis within 60 days prior to addition and are retested and negative to an official tuberculin test not sooner than 60 days from the date the previous test was conducted.
 - 3) Purchased additions shall not receive new herd status for sale or exhibition purposes until they have been members of the herd for at least 60 days and are included in a complete herd retest.

(Source: Amended at 23 Ill. Reg. 628-3, effective JAN 1 1994)

Section 80.140 Cervidae

a) All cervidae entering Illinois shall comply with the following:

- 1) Be negative to two single cervical tests using 0.1 PPD Bovis tuberculin in the midcervical region with reading by observation and palpation at 72 hours, plus or minus 6 hours, no less than 90 days apart, with the second test conducted within 90 days prior to the movement, for all animals 12 months of age and over that were isolated from all other members of the herd during the testing period, unless they originate from an accredited, qualified or monitored herd;
- A) Cervidae from an accredited herd may be moved into Illinois without further tuberculosis testing provided that they are accompanied by a certificate stating that such cervidae originated from an accredited herd.
- B) Cervidae originating from qualified or monitored herds may enter Illinois with a negative test within 90 days prior to importation and a certificate stating that the animals originate from a monitored herd.
- C) Institutions that have been accredited by the American Zoo and Aquarium Association (AZAA) are exempt from these requirements when movement is between accredited member facilities. All other movement from AZAA-accredited members must comply with these movement requirements.
- 2) Be accompanied by a Certificate of Veterinary Inspection issued by an accredited veterinarian within 30 days prior to importation.
- 3) Be individually identified by an approved eartag, microchip or tattoo.
- 4) Be accompanied by a permit obtained from the Department as follows:
 - A) Applicant for permit shall furnish the following information

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to the Department:

- i) Name and post office mailing address of Illinois destination;
- ii) Name and post office mailing address of consignor;
- iii) Number of cervidae in shipment.
- B) Grounds for refusal to issue permit are:
 - i) Violation of the Act or any rule of this Part;
 - ii) Presence of a disease which might endanger the Illinois livestock industry;
 - iii) Refusal to provide required information for the permit.
- C) Permits will be issued by telephoning or writing the Department.
- b) Accredited, qualified and monitored tuberculosis-free cervidae herds shall be established and maintained in accordance with the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228 (effective May 15, 1994, including 1996 amendments, and Federal Register, Vol. 63, No. 35, February 23, 1998, pages 8837-8840)) and/or the United States Department of Agriculture. This incorporation by reference does not include any future editions or amendments beyond the date specified.
- c) Cervidae entering Illinois must also be in compliance with the Illinois Wildlife Code [520 ILCS 5].

(Source: Amended at 23 Ill. Reg. 628-3, effective JAN 1 1994)

DEPARTMENT OF AGRICULTURE
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- 1) Heading of the Part: Illinois Pseudorabies Control Act
- 2) Code Citation: 8 Ill. Adm. Code 115
- 3) Section Numbers: Adopted Action:
115.10 Amended
115.40 Amended
115.80 Amended
115.100 Amended
- 4) Statutory Authority: Illinois Pseudorabies Control Act [510 ILCS 90]
- 5) Effective Date of amendments: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15831, September 4, 1998.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no changes.
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: References to the Code of Federal Regulations have been updated to the 1998 edition in Sections 115.10 and 115.100. The current edition of the Pseudorabies Eradication State-Federal-Industry Program Standards is being updated in Section 115.80. In Section 115.40(a)(4), the testing requirements for establishing a qualified pseudorabies negative herd without a complete herd test are being amended.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

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utilizing official pseudorabies serologic tests that provide a 95 percent probability of detecting infection in a herd in which at least 5 percent of the swine are seropositive for pseudorabies. Each separated group of swine on an individual premises must be considered a separate herd and sampled as follows:

- Less than 100 head - test 45
- 100-200 head - test 51
- 201-999 head - test 57
- 1000 and over - test 59

"Official random-sample test (95/10)" means a sampling procedure utilizing official pseudorabies serologic tests that provide a 95 percent probability of detecting infection in a herd in which at least 10 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:

- Less than 100 head - test 25
- 100-200 head - test 27
- 201-999 head - test 28
- 1000 and over - test 29

"Official test" or "test" means any serologic test for the detection of pseudorabies (serum neutralization (SN), for example) as approved by the United States Department of Agriculture (9 CFR 85.1, 1998 1997) and conducted in an approved laboratory.

(Source: Amended at 23 Ill. Reg. 104-13, effective JAN 1 1993)

Section 115.40 Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds

- a) Initial Requirements:
- 1) Herds which are not under quarantine for pseudorabies shall be initially qualified upon completion of one negative herd test of all breeding swine 6 months of age and over plus a number of progeny equal to 20 percent of the breeding swine population of the herd. Progeny shall be randomly selected from the swine between 4 and 6 months of age.
 - 2) A minimum of 90 percent of the herd shall have been on the premises for at least 60 days OR shall have originated direct from another qualified pseudorabies negative herd.
 - 3) If positive swine are disclosed in a herd in the process of becoming a qualified pseudorabies negative herd, the positive animals shall be immediately isolated from the remainder of the herd and be disposed of for slaughter OR be maintained on another

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PART 115
ILLINOIS PSEUDORABIES CONTROL ACT

- Section 115.10 Definitions
- 115.15 Incorporation by Reference
- 115.20 Pseudorabies Quarantines
- 115.30 General Requirements for Qualified Pseudorabies Negative, Negative Gene-Altered Vaccinated and Feeder Swine Pseudorabies Monitored Herds
- 115.40 Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds
- 115.50 Requirements for Establishing and Maintaining Pseudorabies Qualified-Negative Gene-Altered Vaccinated (QNV) Swine Herds
- 115.60 Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds (Repealed)
- 115.70 Pseudorabies Test Requirements for Intrastate Movement
- 115.80 Pseudorabies Testing of Feeder Swine
- 115.90 Feeder Swine
- 115.100 Breeding Animals Consigned to Slaughter

AUTHORITY: Implementing and authorized by the Illinois Pseudorabies Control Act [510 ILCS 90].

SOURCE: Adopted at 12 Ill. Reg. 3394, effective January 22, 1988; amended at 13 Ill. Reg. 3685, effective March 13, 1989; amended at 14 Ill. Reg. 1935, effective January 19, 1990; amended at 14 Ill. Reg. 5065, effective March 21, 1990; amended at 14 Ill. Reg. 15318, effective September 10, 1990; amended at 16 Ill. Reg. 11781, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5906, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14006, effective August 16, 1993; amended at 20 Ill. Reg. 1542, effective January 12, 1996; amended at 21 Ill. Reg. 904, effective January 7, 1997; amended at 21 Ill. Reg. 17079, effective January 1, 1998; amended at 23 Ill. Reg. 104-13, effective JAN 1 1993.

Section 115.10 Definitions

The definitions for this Part shall be as set forth in the general definitions Section (8 Ill. Adm. Code 20.1). Also, the following definitions shall apply to this Part:

"Act" means the Illinois Pseudorabies Control Act [510 ILCS 90].

"Official random-sample test (95/5)" means a sampling procedure

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premises separate and apart from that where the negative swine are maintained. The herd shall then be recognized as a qualified pseudorabies negative herd when it has complied with the provisions of Section 115.40(a)(1).

- 4) A qualified pseudorabies negative herd may be established without a complete herd test if all the swine originate from qualified pseudorabies negative herds and, within 21-45 90 days after arrival, all swine in the initial shipment (up to 50 animals) are tested and found negative.

b) Maintenance Requirements:

- 1) Qualified pseudorabies negative herd status is maintained by subjecting all swine over 6 months of age in the herd to an official pseudorabies serologic test at least once each year (this shall be accomplished by testing 20 percent of swine 6 months of age and over and a number of offspring 4 to 6 months of age located on the same premises as the breeding herd equal to 6 percent of the breeding animals in the herd every 80 to 105 days and finding all swine so tested negative, or by testing 7 percent of all breeding swine 6 months of age or older, and a test of the offspring 4 to 6 months of age located on the same premises equal to 2 percent of the breeding animals in the herd each month and finding all swine so tested negative). If the members of the qualified herd are maintained on more than one premises, 20 percent plus progeny or 7 percent plus progeny of the swine on each premises shall be retested as required. If the retests are not conducted when due, the requalification requirements shall then be the same as for initial qualification. Upon approval from the Director, status may also be maintained on the basis of a monthly negative official random-sample test (95/5) in each separate population of breeding swine on a premises, and a monthly test of 50 offspring 4 to 6 months of age located on the same premises as the breeding herd. Sampling in the population must be random, and the test protocol in the herd must be part of the approval. Progeny must be selected at random from all groups on the premises.

- 2) If positive swine are disclosed on a requalification test, or on a test for any other purpose, the positive swine shall be immediately isolated from the remainder of the herd and be disposed of for slaughter OR maintained on another premises separate and apart from that where the negative swine are maintained. The infected premises or portions thereof shall be cleaned and disinfected. Such herd may again be recognized as a qualified pseudorabies negative herd upon completion of a negative herd test of all swine in the herd 6 months of age and over and an official random-sample test (95/10) of progeny 2-6 months of age conducted not less than 30 days after the last infected swine have been removed and the premises cleaned and disinfected.

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c) Additions:

- 1) Swine originating in another qualified pseudorabies negative herd may enter Illinois qualified pseudorabies negative herd without test.
- 2) Swine originating from other than a qualified pseudorabies negative herd shall be negative to an official test for pseudorabies conducted not more than 30 days prior to entry into the herd, shall be held in isolation from the other members of the qualified herd, and shall be retested and negative to an official test for pseudorabies not less than 30 nor more than 60 days following entry.
- 3) Members of a qualified pseudorabies negative herd which are exhibited or are otherwise commingled with swine from non-qualified pseudorabies negative herds shall be held in isolation on the herd premises for a minimum of 30 days after return AND shall be tested and negative to an official test for pseudorabies before being reunited with other members of the qualified herd.
- d) Establishing and maintaining a qualified pseudorabies negative growout premises on which no adult breeding swine are maintained.
 - 1) In herds where the pigs are moved within one week after weaning from a pseudorabies negative herd to either a growout or sales point, a pseudorabies test is not required.
 - 2) Pseudorabies negative status may be attained in the growout facility by a monthly negative random-sample test (95/5) beginning within 30 days after the establishment of the herd, except that in all-in/all-out units, one test of 50 head is required of each group. If the breeding herd, growout and sales point herd are all located in Illinois, testing is not required.
 - 3) Pseudorabies negative status is attained in the sales point herd by a negative official pseudorabies test of the entire initial shipment or 50 head selected at random, whichever is less. Pseudorabies negative status may be maintained by a monthly negative official pseudorabies test of 50 swine selected at random from those that have been in the herd at least 30 days, except that in all-in/all-out units, one test of 50 head is required of each group. Each segregated group of swine on an individual premises must be considered a separate herd.

(Source: Amended at 23 Ill. Reg.

434, effective

Section 115.80 Pseudorabies Testing of Feeder Swine

- a) Swine for feeding purposes shall, in addition to complying with the other requirements of this Part and 8 Ill. Adm. Code 105.10, enter or move within Illinois without further testing requirements for pseudorabies if:

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- 1) The swine are from a qualified pseudorabies negative herd, a QNV herd, or a feeder swine pseudorabies monitored herd; or
- 2) The swine are from a herd in which a representative sample of animals 6 months of age and over have been tested and are negative to an official serological test for pseudorabies within the preceding 12 months. In herds of 35 animals or less, a representative sample is all swine 6 months of age and over or at least 10 animals, whichever is less. In herds of 36 animals or more, a representative sample is a minimum of 30 percent or 30 animals that are 6 months of age and over, whichever is less; or
- 3) The swine originate from a state that has been classified as Stage III, IV or V under the Pseudorabies Eradication State-Federal-Industry Program Standards (Jan. 7 1998 1997) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176) or originate from a country that meets the requirements for Stage V. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.
- b) Swine tested for pseudorabies under a market swine testing program (Section 115.100) shall be included in the representative sample required in subsection (a)(2).

(Source: Amended at 23 Ill. Reg. 134, effective JAN 5 1997)

Section 115.100 Breeding Animals Consigned to Slaughter

Before being mixed with swine from any other source, all breeding animals consigned to slaughter or offered for sale for slaughter shall be identified to the herd of origin by an approved identification tag in accordance with the Swine Identification Program (9 CFR 78.33, 1998 1997). The tag shall be applied to the back of the neck of each animal. A report of such identification shall be made on forms provided by the United States Department of Agriculture and shall be submitted to the Department within 30 days of application. If such swine are slaughtered in Illinois, the management of the Illinois slaughter facility shall, upon written request from the Department or from the U.S. Department of Agriculture, provide for or permit the collection of blood samples for testing from the identified swine.

(Source: Amended at 23 Ill. Reg. 134, effective JAN 5 1997)

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- 1) Heading of Part: Livestock Auction Markets
- 2) Code Citation: 8 Ill. Adm. Code 40
- 3) Section Numbers: Adopted Action:
40.120 Amended
40.130 Amended
40.170 Amended
- 4) Statutory Authority: Livestock Auction Market Law [225 ILCS 640] and Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23]
- 5) Effective Date of amendments: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15838, September 4, 1998.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements.
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Section 40.120 is amended to limit the feeder cattle subject to quarantine to those originating from non-Stage Free states. The color yellow is deleted from Section 40.130 as any color crayon or paint will be acceptable. The 1998 edition of the Pseudorabies Eradication State-Federal-Industry Program Standards is adopted in Section 40.170.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Debbie Wakefield
 Illinois Department of Agriculture
 State Fairgrounds
 Springfield, Illinois 62794-9281
 Telephone: 217/785-5713
 Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
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PART 40

LIVESTOCK AUCTION MARKETS

Section	
40.5	Definitions
40.10	Fee to Accompany Application Not To Be Refunded
40.20	Release of Livestock for Interstate Shipment
40.30	Veterinary Inspection
40.40	Veterinary Office
40.50	Detection of Diseased Animals
40.60	Bovine Brucellosis
40.70	Quarantine Pen
40.80	The Sale of Livestock for Immediate Slaughter
40.90	Test Chute
40.100	Brucellosis Test
40.110	Sale of Official Brucellosis Calfhood Vaccinates
40.120	Feeder Cattle Subject to Quarantine
40.130	Backtagging
40.140	Yarding and Housing
40.150	Display License (Repealed)
40.160	Sale Day
40.170	Swine
40.180	Swine Which React to Test for Brucellosis
40.190	Sheep
40.200	Surety Bonds and Other Pledged Security
40.210	Cancellation of Escrow Agreements (Personal Bonds) (Repealed)
40.220	Swine Movement Limitations (Repealed)
40.230	Disposition of Rejected Feeding or Breeding Swine
40.240	Director To Be Named Trustee (Repealed)

AUTHORITY: Implementing and authorized by the Livestock Auction Market Law [225 ILCS 640] and Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23].

SOURCE: Regulations Relating to Livestock Auction Markets, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 14, 1973, effective December 24, 1973; filed March 2, 1976, effective March 12, 1976; amended at 2 Ill. Reg. 24, p. 73, effective June 15, 1978; codified at 5 Ill. Reg. 10442; amended at 8 Ill. Reg. 5956, effective April 23, 1984; amended at 10 Ill. Reg. 9754, effective May 21, 1986; amended at 12 Ill. Reg. 3411, effective January 22, 1988; amended at 14 Ill. Reg. 1943, effective January 19, 1990; amended at 16 Ill. Reg. 11793, effective July 8, 1992; amended at 18 Ill. Reg. 1869, effective January 24, 1994; amended at 20

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Ill. Reg. 1546, effective January 12, 1996; amended at 20 Ill. Reg. 16192, effective January 1, 1997; amended at 21 Ill. Reg. 17085, effective January 1, 1998; amended at 23 Ill. Reg. 41, effective JAN 1 1999.

Section 40.120 Feeder Cattle Subject to Quarantine

All female cattle of beef breeds over 6 and under 18 months of age from states that are not brucellosis Class Free under the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, May 6, 1992, as amended February 2, 1993 and June 16, 1994) and the United States Department of Agriculture and/or 9 CFR 78.1 (1998) sold or released from a livestock auction market for feeding or grazing purposes are subject to quarantine (8 Ill. Adm. Code 75.130) and shall be reported on Form M-107 Revised to the Department following each sale or at the end of each week.

(Source: Amended at 23 Ill. Reg. 41, effective JAN 1 1999)

Section 40.130 Backtagging

All cattle over 2 years of age consigned to a livestock auction market shall comply with the Market Cattle Identification Program as follows:

- Each animal shall be backtagged with an official Illinois market cattle backtag.
- Cattle that are blood tested for brucellosis by the livestock auction market veterinarian shall have the backtag marked through with a yellow crayon or yellow paint.
- Report of such backtagging on forms provided by the United States Department of Agriculture shall be submitted to the Department within 7 days of backtag application.

(Source: Amended at 23 Ill. Reg. 41, effective JAN 1 1999)

Section 40.170 Swine

- In no case shall swine remain on the livestock auction market premises for more than 10 days.
- Out-of-state feeder swine shall enter Illinois accompanied by a health certificate and a permit (8 Ill. Adm. Code 105.10) and be ear tagged to show state of origin, except that feeder swine consigned from the farm of origin directly to a federally approved market shall be tagged immediately upon arrival at the market. Such swine shall move directly into Illinois from the state of origin. A report of sale shall be made within 48 hours of the time of sale (on Form Z-5) to the Department, stating name and address of purchaser and number of animals purchased. Such swine shall be quarantined to the purchaser

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- for 21 days by the Department (8 Ill. Adm. Code 105.20).
Ear tag identification of swine, together with the name and address of consignor and purchaser, date of sale, breed and number purchased, shall be made a part of the records of the livestock auction market before swine leave the livestock auction market.
- In accordance with Section 2 of the Illinois Swine Brucellosis Eradication Act [225 ILCS 95/2], all breeding swine 4 months of age and over shall be negative to an official test for brucellosis within 60 days prior to sale or originate from a validated brucellosis-free herd. Such test shall be recognized for one change of ownership or premises only within the 60-day period.
- In accordance with Section 115.70 of the regulations pertaining to the Illinois Pseudorabies Control Act (8 Ill. Adm. Code 115.70), all Illinois origin breeding swine must be accompanied by a health certificate or an official pseudorabies test chart or photocopy of such chart showing that the swine have tested negative to an official test for pseudorabies within 60 days prior to the date of such transaction with the test being recognized for one change of ownership or premises within the 60-day period, or showing that the swine originated from a qualified pseudorabies negative herd, or showing that the swine are unvaccinated swine originating from an Illinois pseudorabies negative gene-altered vaccinated herd.
- In accordance with Section 105.30 of the regulations pertaining to the Swine Disease Control and Eradication Act (8 Ill. Adm. Code 105.30), the official health certificate shall show that any breeding swine entering Illinois must be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry, or that the swine originated from a qualified pseudorabies negative herd with the qualified herd number and qualification date listed on the health certificate, or that the swine originated from a country that meets the requirements for Stage V, or from a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards (January 1998 #19997) as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). (This incorporation by reference does not include any amendments or editions beyond the date specified.) If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

(Source: Amended at 23 Ill. Reg. 41, effective JAN 1 1999)

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- 1) Heading of the Part: Livestock Dealer Licensing
- 2) Code Citation: 68 Ill. Adm. Code 610
- 3) Section Numbers: Adopted Action:
610.10 Amended
610.50 Amended
610.80 Amended
610.100 Amended
- 4) Statutory Authority: Illinois Livestock Dealer Licensing Act [225 ILCS 645]
- 5) Effective Date of Amendments: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15843, September 4, 1998
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no amendments
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The requirement to file the Form M-106 Weekly Report of out-of-state livestock sales is being deleted from Section 610.10 as it is no longer necessary. In Section 610.50, the requirement for Form M-107 Weekly Report of Sale of Feeder Cattle is restricted only to imported female feeder cattle between 6-18 months of age from states that are not brucellosis class-free under the Brucellosis Eradication Uniform Methods and Rules and 9 CFR 78.1. Section 610.80 is being amended to allow Department inspectors to make photocopies of the livestock dealer's records as necessary. In Section 610.100, cattle moving directly from the farm of origin to an auction market or marketing

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center that have not been commingled with other animals are allowed to be backtagged at the auction market or marketing center.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER II: DEPARTMENT OF AGRICULTURE

PART 610
LIVESTOCK DEALER LICENSING

- Section 610.5 Definitions
- 610.10 Entry Requirements
- 610.20 Breeding Cattle Health Requirements (Repealed)
- 610.30 Swine Health Requirements
- 610.40 Prevention of Spread of Livestock Diseases
- 610.50 Feeder Cattle
- 610.60 Slaughter Animals
- 610.70 Care of Livestock (Repealed)
- 610.80 Inspection
- 610.90 Identification Not to be Removed or Altered
- 610.100 Compliance with Market Cattle Identification Program
- 610.110 Surety Bonds and Other Pledged Security
- 610.120 Cancellation of Escrow Agreements (Personal Bonds) (Repealed)
- 610.130 Director as Trustee on Surety Bonds (Repealed)
- 610.140 Dealer's Agent (Repealed)
- 610.150 License Application

AUTHORITY: Implementing and authorized by the Illinois Livestock Dealer Licensing Act [225 ILCS 645].

SOURCE: Rules and Regulations Relating to the Livestock Dealer Licensing Act, filed January 17, 1972, effective January 27, 1972; amended May 3, 1972, effective May 13, 1972; June 20, 1973, effective July 1, 1973; April 5, 1976, effective April 15, 1976; amended at 2 Ill. Reg. 34, p. 166, effective August 24, 1978; codified at 5 Ill. Reg. 10573; amended at 8 Ill. Reg. 5973, effective April 23, 1984; amended at 13 Ill. Reg. 3690, effective March 13, 1989; amended at 18 Ill. Reg. 1875, effective January 24, 1994; amended at 20 Ill. Reg. 1552, effective January 12, 1996; amended at 20 Ill. Reg. 16197, effective January 1, 1997; amended at 21 Ill. Reg. 17091, effective January 1, 1998; amended at 23 Ill. Reg. 446, effective JAN 1 1999.

Section 610.10 Entry Requirements

All livestock imported into the State shall meet Illinois entry requirements as may be set forth in those Acts listed in Section 19.1 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/19.1]. ~~Livestock-dealers shall submit to the Department, on Department Form M-106, weekly reports of all out-of-state livestock.~~

(Source: Amended at 23 Ill. Reg. 446, effective JAN 1 1999)

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Section 610.50 Feeder Cattle

Livestock dealers purchasing animals for feeding purposes shall:

- Keep such cattle separate from breeding cattle.
- Submit to the Department a weekly report (on Department Form M-107) of the sale of all out-of-state female feeder cattle over 6 and under 18 months of age from states that are not brucellosis Class-Free under the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, May 6, 1992, as amended February 2, 1993 and June 16, 1994) and the United States Department of Agriculture and/or 9 CFR 78.1 (1998), giving the date of each sale, number sold, age, breed, and the name and address of the purchaser.

(Source: Amended at 23 Ill. Reg. 446, effective JAN 1 1999)

Section 610.80 Inspection

Records and premises shall be open for inspection during regular business hours by authorized Department inspectors. Department inspectors are authorized to make photocopies of any and all records as necessary.

(Source: Amended at 23 Ill. Reg. 446, effective JAN 1 1999)

Section 610.100 Compliance with Market Cattle Identification Program

All female cattle over 2 years of age consigned to a livestock auction market shall comply with the Market Cattle Identification Program as follows:

- Each animal shall be backtagged by the livestock dealer with an official market cattle backtag.
- Reports of such backtagging shall be submitted to the Department on forms provided by the United States Department of Agriculture within 7 days of application of the backtag.
- Cattle moving directly from the farm of origin to an auction market or marketing center without commingling with other animals can be tagged at the auction market or marketing center.

(Source: Amended at 23 Ill. Reg. 446, effective JAN 1 1999)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) Section Numbers:
125.40 Adopted Action:
125.142 Amended
125.142 Amended
- 4) Statutory Authority: Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].
- 5) Effective Date of amendments: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 16391, September 18, 1998
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: A peremptory amendment that was effective November 16, 1998 was added to the main Source note.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: In Section 125.40, all of 9 CFR 305.1 is incorporated by reference regarding official numbers assigned to state-inspected meat processing/slaughtering establishments, subsidiaries, and tenants granted inspection.

On August 1, 1997, the Department adopted changes in federal rules that established pathogen reduction performance standards for Salmonella that slaughter establishments and establishments producing raw ground products must meet; and required all meat and poultry establishments to develop and implement a system of preventive controls designed to improve the safety of their products, known as Hazard Analysis and Critical Control Points

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(HACCP). Implementation dates were established in Section 125.142 for large, small, and very small establishments. This rulemaking moves up the implementation dates by nine months for small and very small plants. This change is needed for Illinois' meat and poultry establishments to be consistent with both federal regulations and other state meat inspection programs and therefore be able to comply with interstate shipping requirements. The Department is working with these plants to help them prepare for the earlier implementation dates.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER I: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER C: MEAT AND POULTRY INSPECTION ACT

PART 125

MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR
 POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments
125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition

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125.290	Transportation
125.295	Imported Products (Repealed)
125.300	Special Services Relating to Meat and Other Products
125.305	Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; peremptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; peremptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; peremptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; peremptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; peremptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; peremptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; peremptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; peremptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; peremptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; peremptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; peremptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; peremptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; peremptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; peremptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; peremptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; peremptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; peremptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; peremptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; peremptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; peremptory amendment at 11 Ill. Reg.

10321, effective May 15, 1987; peremptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; peremptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; peremptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; peremptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; peremptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; peremptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; peremptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; peremptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; peremptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; peremptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; peremptory amendment at 13 Ill. Reg. 228, effective January 13, 1989; peremptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; peremptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; peremptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; peremptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; peremptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; peremptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; peremptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; peremptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; peremptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; peremptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; peremptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; peremptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; peremptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; peremptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; peremptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; peremptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; peremptory

amendment at 19 Ill. Reg. 7067, effective May 8, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; peremptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; peremptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; peremptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; peremptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; peremptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; peremptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; peremptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; peremptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; peremptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; peremptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; peremptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; peremptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 1431, effective ~~1999~~ 1999.

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR POULTRY INSPECTION

Section 125.40 Official Number

The Department incorporates by reference 9 CFR 305.14a (1997).

(Source: Amended at 23 Ill. Reg. ~~1431~~ 1431, effective ~~1999~~ 1999.)

Section 125.142 Hazard Analysis and Critical Control Point (HACCP) Systems

The Department incorporates by reference 9 CFR 417 (1997; 62 FR 61007, effective January 13, 1998). The HACCP regulations set forth in 9 CFR 417 and related provisions set forth in 9 CFR 304, 327, and 381 will be applicable as follows:

- a) In large establishments, defined as all establishments with 500 or more employees, on October 1, 1998;
- b) In smaller establishments, defined as all establishments with 10 or more employees but fewer than 500, on January 25, ~~October-17~~ 1999;
- c) In very small establishments, defined as all establishments with fewer than 10 employees or annual sales of less than \$2.5 million, on January 25, ~~October-17~~ 2000.

(Source: Amended at ~~23~~ 23 Ill. Reg. ~~1431~~ 1431, effective ~~1999~~ 1999.)

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Swine Brucellosis
- 2) Code Citation: 8 Ill. Adm. Code 100
- 3) Section Numbers: Adopted Action:
100.30 Amended
- 4) Statutory Authority: The Illinois Swine Brucellosis Eradication Act [510 ILCS 95], the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Diseased Animals Act [510 ILCS 50]
- 5) Effective Date of amendments: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15847, September 4, 1998.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements.
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: References to the Code of Federal Regulations are being updated to the 1998 edition of that publication.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 100
SWINE BRUCELLOSIS

Section	for Establishing and Maintaining	Validated
100.10	Requirements for Brucella-Free Herds of Swine	
100.20	Brucellosis Reactors Disclosed in Non-Validated Swine Herds	
100.30	Breeding Animals Consigned to Slaughter	

AUTHORITY: Implementing and authorized by the Illinois Swine Brucellosis Eradication Act [510 ILCS 95], the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Diseased Animals Act [510 ILCS 50]

SOURCE: Adopted at 2 Ill. Reg. 24, p. 55, effective June 15, 1978; codified at 5 Ill. Reg. 10460; amended at 7 Ill. Reg. 871, effective January 10, 1983; amended at 11 Ill. Reg. 10531, effective May 21, 1987; amended at 12 Ill. Reg. 3432, effective January 22, 1988; amended at 14 Ill. Reg. 1953, effective January 19, 1990; amended at 20 Ill. Reg. 1557, effective January 12, 1996; amended at 23 Ill. Reg. 296, effective JAN 1 1999.

Section 100.30 Breeding Animals Consigned to Slaughter

Before being mixed with swine from any other source, all breeding animals consigned to slaughter or offered for sale for slaughter shall be identified to the herd of origin by an approved identification tag (9 CFR 78.33, 1998 ~~1995~~). Incorporation by reference does not include any later amendments or editions beyond the date specified. A report of such identification (9 CFR 78.33(d), 1998 ~~1995~~) shall be made on forms provided by the United States Department of Agriculture and shall be submitted to the Department within 30 days of application.

(Source: Amended at 23 Ill. Reg. JAN 1 1999, effective 456 ~~1995~~.)

DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Swine Disease Control and Eradication Act
- 2) Code Citation: 8 Ill. Adm. Code 105
- 3) Section Numbers: Adopted Action:
105.5 Amended
105.10 Amended
105.30 Amended
105.90 Amended
- 4) Statutory Authority: Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90], and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95].

- 5) Effective Date of amendments: January 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15850, September 4, 1998.

- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no changes
- 13) Will these amendments replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The definition of "site tattoo" is being amended in Section 105.5 to include a slap tattoo. Sections 105.10 and 105.30 are being amended to adopt the 1998 Pseudorabies Eradication State- Federal-Industry Program Standards. Section 105.30 is being amended to recognize split state status for states that are Stage III and above, and "ear tag" is being amended to "an approved ear tag". References are being updated to the 1998 edition of the Swine Brucellosis Eradication Uniform Methods and Rules in Section 105.30. Section 105.30 is also being amended to change the retesting for pseudorabies of imported

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

breeding swine from Stage III states and below to 21 to 60 days post importation. In Section 105.90, the age restriction for brucellosis testing of feral swine is being removed, and feral swine will have to be retested for pseudorabies within 21 to 60 days post importation.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 105

SWINE DISEASE CONTROL AND ERADICATION ACT

Section

- 105.5 Definitions
105.10 Swine Entering Illinois for Feeding Purposes Only
105.20 Quarantine of Imported Feeder Swine
105.30 Swine Entering Illinois for Breeding Purposes
105.40 Pseudorabies (Aujeszky's Disease) in Swine (Repealed)
105.41 General Requirements for Qualified Pseudorabies Negative, Controlled Vaccinated and Feeder Swine Pseudorabies Monitored Herds (Repealed)
105.42 Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds (Repealed)
105.44 Requirements for Establishing and Maintaining Pseudorabies Controlled Vaccinated Swine Herds (Repealed)
105.46 Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds (Repealed)
105.50 Official Pseudorabies Test (Repealed)
105.60 Pseudorabies Test Requirements for Intrastate Movement (Repealed)
105.70 Pseudorabies Testing of Feeder Swine (Repealed)
105.80 Feeder Swine (Repealed)
105.90 Feral Swine

AUTHORITY: Implementing and authorized by the Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90], and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95].

SOURCE: Rules and Regulations Relating to the Illinois Swine Disease Control and Eradication Act, filed February 24, 1975, effective March 6, 1975; 2 Ill. Reg. 24, p. 31, effective June 15, 1978; 2 Ill. Reg. 46, p. 10, effective November 11, 1978; 3 Ill. Reg. 33, p. 341, effective January 1, 1980; 5 Ill. Reg. 3, p. 745, effective January 2, 1981; 5 Ill. Reg. 45, p. 12100, effective October 27, 1981; codified at 5 Ill. Reg. 10461; amended at 5 Ill. Reg. 13619, effective December 4, 1981; amended at 8 Ill. Reg. 5998, effective April 23, 1984; amended at 9 Ill. Reg. 2236, effective February 15, 1985; amended at 9 Ill. Reg. 18435, effective November 19, 1985; amended at 10 Ill. Reg. 9758, effective May 21, 1986; amended at 11 Ill. Reg. 10187, effective May 15, 1987; amended at 11 Ill. Reg. 10538, effective May 21, 1987; amended at 12 Ill. Reg. 3440, effective January 22, 1988; amended at 13 Ill. Reg. 3715, effective March 13, 1989; amended at 14 Ill. Reg. 1961, effective January 19, 1990; amended at 14 Ill. Reg. 15322, effective September 10, 1990; amended at 16 Ill. Reg. 11799, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5910, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg.

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14010, effective August 16, 1993; amended at 18 Ill. Reg. 1880, effective January 24, 1994; amended at 18 Ill. Reg. 17968, effective January 1, 1995; amended at 20 Ill. Reg. 1563, effective January 12, 1996; amended at 21 Ill. Reg. 917, effective January 7, 1997; amended at 21 Ill. Reg. 17094, effective January 1, 1998; amended at 23 Ill. Reg. 1508, effective JAN 1 1999.

Section 105.5 Definitions

The definitions for this Part shall be as set forth in the general definitions Section (8 Ill. Adm. Code 20.1). Also, the following definitions shall apply to this Part:

"Act" means the Illinois Swine Disease Control and Eradication Act [510 ILCS 100].

"Feral swine" means swine that have lived any part of their lives free roaming. Swine may lose their designation as feral if they are maintained in captivity for at least 30 days and are tested negative for pseudorabies and brucellosis.

"Site tattoo" means a permanent mark applied in the right ear or a slap tattoo on the right shoulder showing a unique number giving state and herd of origin. The unique number shall be assigned and approved by the Chief Animal Health Official of the state of origin or by the Federal Veterinarian in charge for that state.

(Source: Amended at 23 Ill. Reg. 1508, effective JAN 1 1999)

Section 105.10 Swine Entering Illinois for Feeding Purposes Only

a) Feeder swine, except feral swine, may enter Illinois provided they are identified by an ear tag or site tattoo in the right ear showing state of origin and accompanied by a permit from the Department and an official health certificate.

b) Official health certificate shall:

- 1) Be issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States' Department of Agriculture;
- 2) Be approved by the Animal Health Official of state of origin;
- 3) Show that the feeder swine are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereto;
- 4) Show that the feeder swine are not from a quarantined herd and/or area;
- 5) List number and description of the feeder swine, site tattoos, ear tag series or location of ear tag records when pigs originate

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

from cooperative feeder pig sales; and

6) Show that the swine originated from a herd in which a representative sample of the breeding herd has been tested and found negative for pseudorabies (8 Ill. Adm. Code 115.80), originate from a qualified pseudorabies negative or pseudorabies negative gene-altered vaccinated herd or originate from a state that has been classified as Stage III, IV or V under the Pseudorabies Eradication State-Federal-Industry Program Standards (January 1998 1997) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176) or originate from a country that meets the requirements for Stage V. This incorporation by reference does not include any future editions or amendments beyond the date specified. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

c) Permits:

- 1) Permits to import feeder swine shall only be issued to:
 - A) An Illinois licensed feeder swine dealer; and
 - B) A person importing pigs to feed on his own premises and not for resale other than to slaughter.

2) Applicant for permit shall furnish the following information to the Department:

- A) Name and complete mailing address of Illinois destination.
- B) Name and address of consignor.
- C) Number of swine in shipment.

3) Grounds for refusal to issue a permit are:

- A) Violation of the Act or any rule of this Part.
- B) If a person should be licensed under the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620] and his or her license is not in good standing with the Department.
- C) Presence of a disease which might endanger the Illinois swine industry.

(Source: Amended at 23 Ill. Reg. 1508, effective JAN 1 1999)

Section 105.30 Swine Entering Illinois for Breeding Purposes

a) Swine for breeding purposes, except feral swine, may enter Illinois provided they are accompanied by a permit from the Department and an official health certificate.

b) Official health certificate shall:

- 1) Be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
- 2) Be approved by the Animal Health Official of the state of origin;

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- 3) Identify each animal by registration number, approved ear tag, breed registry tattoo, or ear notch approved by the respective breed registry;
 - 4) Show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
 - 5) Show that the swine are not from a quarantined herd and/or area;
 - 6) Show any swine more than 4 months of age to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry, OR that the swine originate from a validated brucellosis-free herd, with validated herd number and validation date listed on the health certificate, OR that the swine originate from a validated brucellosis-free state (Swine Brucellosis Eradication Uniform Methods and Rules (April 1998; February 1995; as approved by the United States Animal Health Association, P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228)). Incorporation by reference does not include any amendments or editions beyond the date specified; and
 - 7) Show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry OR that the swine originated from a qualified pseudorabies negative herd, with the qualified herd number and qualification date listed on the health certificate, OR that the swine originated from a country that meets the requirements for Stage V or from a state that has been classified as Stage IV or State V under the Pseudorabies Eradication State-Federal-Industry Program Standards (January 1998 1997) as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above. Incorporation by reference does not include any amendments or editions beyond the date specified.
- c) Permits:
- 1) Permits to import breeding swine shall be issued by telephoning or writing the Department.
 - 2) Applicant for permit shall furnish the following information to the Department:
Name and complete mailing address of Illinois destination;
Name and address of consignor; and
Number of swine in shipment.
 - 3) Grounds for refusal to issue a permit are:
 - A) Violation of the Act or any rule of this Part; and
 - B) Presence of a disease which might endanger the Illinois swine industry.

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- d) Imported breeding animals shall be kept isolated until a percentage of the imported breeding swine are retested and negative to an official test for pseudorabies conducted not less than 21 days nor more than 60 days after entering Illinois. If the number of imported breeding animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 imported breeding animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested. Swine originating from a country that meets the requirements for Stage V or a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards are exempt from the isolation and retest provisions. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above.

(Source: Amended at 23 Ill. Reg. 4.09, effective

Section 105.90 Feral Swine

- a) Feral swine may enter Illinois for any reason provided they are accompanied by a permit from the Department and an official health certificate.
- b) The official health certificate shall:
- 1) be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
 - 2) be approved by the Animal Health Official of the state of origin;
 - 3) identify each animal by ear tag;
 - 4) show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
 - 5) show the swine are not from a quarantined herd and/or area;
 - 6) show any swine ~~more~~ more-than-4-months-of-age to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry; and
 - 7) show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry.
- c) Permits:
- 1) permits to import feral swine shall be issued by telephoning or writing the Department.
 - 2) Applicant for permit shall furnish the following information to the Department:
Name and mailing address of Illinois destination;
Name and address of consignor; and

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Number of swine in shipment.

- 3) Grounds for refusal to issue a permit are:
- A) Violation of the Act or any rule of this Part; and
 - B) Presence of a disease which might endanger the Illinois swine industry.
- d) A percentage of the swine shall be retested and negative to an official test for pseudorabies conducted not less than 21 90 days nor more than 60 90 days after entering Illinois. If the number of animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested.

(Source: Amended at 23 Ill. Reg. 609 effective AN 1/1/11)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Brownfields Redevelopment Grant Program

2) Code Citation: 35 Ill. Adm. Code 885

3) Section Numbers: Adopted Action:

885.100	New
885.105	New
885.110	New
885.200	New
885.205	New
885.210	New
885.215	New
885.220	New
885.225	New
885.230	New
885.235	New
885.240	New
885.245	New
885.250	New
885.255	New
885.260	New
885.300	New
885.305	New
885.310	New
885.315	New
885.320	New
885.325	New
885.330	New
885.400	New
885.405	New

4) Statutory Authority: Section 58.13 of the Illinois Environmental Protection Act, [415 ILCS 5/58.13]

5) Effective Date of Rule: December 23, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 19, 1998, 25 Ill. Reg. 10790

10) Has JCAR issued a Statement of Objections to this rule? No

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

- 11) Difference(s) between proposal and final version: Section 885.215(c) was revised to allow greater flexibility in the timing of grant awards and grant funding.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes required.
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule: This Part sets forth procedures and criteria to govern a grant program providing financial assistance to Illinois municipalities for activities related to redevelopment of brownfields sites. Brownfields sites are parcels of real property that have actual or perceived contamination and an active potential for redevelopment.

- 16) Information and questions regarding this adopted rule shall be directed to:

Judith S. Dyer
Assistant Counsel
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield IL 62794-9276
217/782-5544

The full text of the Adopted Rule begins on the next page:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 885
BROWNFIELDS REDEVELOPMENT GRANT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	Purpose
885.100	Definitions
885.105	Severability
885.110	
SUBPART B: BROWNFIELDS REDEVELOPMENT GRANTS	
885.200	Scope and Availability of Grants
885.205	Grant Assistance Criteria
885.210	Applications for Brownfields Redevelopment Grants
885.215	Agency Action on Application
885.220	Grant Award Acceptance
885.225	Grant Agreement
885.230	Amendments to Grant Agreement
885.235	Cost Criteria
885.240	Grant Payment
885.245	Grantee Responsibilities
885.250	Evaluation of Performance
885.255	Requirements Applicable to Contracting and Subcontracting
885.260	Agency Cost Recovery

SUBPART C: NONCOMPLIANCE WITH GRANT CONDITIONS

Section	
885.300	Agency Action for Noncompliance with Grant Conditions
885.305	Project Termination by Grantee
885.310	Stop-Work Orders
885.315	Covenant Against Contingent Fees
885.320	Recovery of Grant Funds
885.325	Indemnification
885.330	Statutory Requirements

SUBPART D: ACCESS, AUDITING AND RECORDS

Section	
885.400	Access
885.405	Audit and Records

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AUTHORITY: Implementing and authorized by Section 58.13 of the Environmental Protection Act [415 ILCS 5/58.13].

SOURCE: Adopted at 23 Ill. Reg. 467-2-1, effective

DEC 23 1998

SUBPART A: GENERAL PROVISIONS

Section 885.100 Purpose

The purpose of this Part is to provide municipalities in Illinois with financial assistance in the form of grants to be used for coordination of activities related to brownfields redevelopment.

Section 885.105 Definitions

Unless specified otherwise, all terms shall have the meanings set forth in the Illinois Environmental Protection Act. Additionally, for purposes of this Part, the following definitions apply:

"Act" means the Illinois Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Applicant" means a municipality that applies for a brownfields redevelopment grant.

"Brownfields redevelopment grant" means a grant issued pursuant to Section 58.13 of the Act and Subpart B of this Part.

"Brownfields site" or "brownfields" means a parcel of real property, or a portion of the parcel, that has actual or perceived contamination and an active potential for redevelopment. (Section 58.2 of the Act)

"Grant agreement" means the written grant agreement documents and amendments thereto signed by both the Agency and a grantee in which the terms and conditions governing the grant are stated and agreed to by both parties.

"Grantee" means a municipality that has been awarded a grant for brownfields redevelopment under Section 58.13 of the Act.

"Municipality" means an incorporated city, village, or town in this State. Municipality does not mean a township, town when that term is used as the equivalent of a township, incorporated town that has superseded a civil township, county, or school district, park district, sanitary district, or similar governmental district. (Section 58.2 of the Act)

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"State" means the State of Illinois.

Section 885.110 Severability

If any Section, subsection, sentence or clause of this Part shall be adjudged unconstitutional, void, invalid, or otherwise unlawful, such adjudication shall not affect the validity of this Part as a whole, or any Section, subsection, sentence, or clause thereof not adjudged unconstitutional, void, invalid, or otherwise unlawful.

SUBPART B: BROWNFIELDS REDEVELOPMENT GRANTS

Section 885.200 Scope and Availability of Grants

- a) Subject to the availability of funding and the limitations and requirements set forth in this Part, grant assistance is available to municipalities for coordination of activities related to brownfields redevelopment, including identification of brownfields sites, site investigation and determination of remediation objectives and related plans and reports, and development of remedial action plans. (Section 58.13(a)(1) of the Act)
- b) Grant assistance is not available for implementation of remedial action plans or remedial action completion reports. (Section 58.13(a)(1) of the Act)
- c) Grants shall be awarded on a competitive basis subject to availability of funding. (Section 58.13(a)(2) of the Act)
- d) Grant amounts shall not exceed 70% of the eligible project amount, with the remainder to be provided by the municipality as local matching funds.
- e) Grants shall be limited to a maximum of \$120,000 and no municipality shall receive more than one grant under this Part. (Section 58.13(a)(4) of the Act)

Section 885.205 Grant Assistance Criteria

- a) Criteria for awarding grants shall include, but shall not be limited to, the following:
 - 1) Problem statement and needs assessment;
 - 2) Community-based planning and involvement;
 - 3) Implementation planning; and
 - 4) Long-term benefits and sustainability. (Section 58.13(a)(2) of the Act)
- b) In awarding grants, the Agency may give weight to geographic location to enhance geographic distribution of grants across this State. (Section 58.13(a)(3) of the Act)

Section 885.210 Applications for Brownfields Redevelopment Grants

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- a) To be considered for a brownfields redevelopment grant, an applicant must file with the Agency a complete application, in accordance with the requirements of this Section and relevant statutes.
- b) Applicants for brownfields redevelopment grants must use grant application forms furnished by the Agency, or a similar format. Grant applications, including budget forms, may be obtained from and must be submitted to:

Illinois Environmental Protection Agency
Bureau of Land
Solid Waste Management Section
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

- c) A complete brownfields redevelopment grant application must include:

- 1) Background information on the applying municipality and proposed project, including:
 - A) The negative effects on the local community of the brownfields site and the positive effects on the local community of funding and implementation of the proposed project;
 - B) The local government involvement and planned additional involvement in the proposed project;
 - C) If the brownfields site is located in an enterprise zone, as defined at Section 3(b) of the Illinois Enterprise Zone Act [20 ILCS 655/3(b)], a map that identifies the designated enterprise zone and the specific brownfields site location;
 - D) The anticipated long-term benefits of the project and the means by which the municipality will sustain the benefits; and
 - E) How the success of the project will be measured;
- 2) The project plan, including:
 - A) A description of all components and phases of the proposed project;
 - B) A description of planned or proposed tasks to be performed by parties involved;
 - C) A schedule of the work plan by tasks, including specific activities and events;
 - D) A detailed explanation of all anticipated expenses;
 - E) Letter(s) of agreement or other documentation showing the applicant is authorized, by law or consent, to act on behalf of or in lieu of the owner or operator of the site;
 - F) Letter(s) of agreement or other documentation from the contractor or subcontractors involved in or responsible for components or phases of the proposed project; and
 - G) Map(s) indicating location(s) of the proposed project, areas affected by the proposed project and, if relevant to the project, enterprise zone;

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- 3) Information on project team members, including:
- A) The name of the project manager and a description of his or her previous management experience and other pertinent experience and capabilities;
 - B) The names of other project team members and a description of their job titles, work assignments and experience;
 - C) Documentation showing resource commitment by the grantee adequate for the project manager to successfully organize, administer, and complete the project specified in the proposal, such as:
 - i) Evidence of the relevant experience of all project team members; and
 - ii) Proposed allocation of resources, both capital and labor, to the project;
 - D) The name, telephone number, fax number, and e-mail address, if any, of the project team member designated to serve as liaison with the Agency;
- 4) Information on any environmental consultant to be employed by the applicant, including:
- A) The previous project management experience and other pertinent experience and capabilities of the environmental consultant;
 - B) The names of key environmental consultant personnel and a description of their job titles, work assignments and experience;
 - C) A detailed description of the tasks the consultant is to perform in the proposed project; and
 - D) Evidence of relevant experience of all environmental consultant personnel involved in the project;
- 5) Any remedial action plans and remedial action completion reports; and
- 6) The grant amount requested and a budget, on a form prescribed by the Agency, or in a similar format, outlining the expenses to be incurred. All amounts must be rounded to the nearest dollar and all percentages must be carried to one decimal place. The budget must include costs of:
- A) Personnel services;
 - B) Equipment;
 - C) All other direct costs; and
 - D) Contractor and subcontractors.

Section 885.215 Agency Action on Application

- a) Issuance of brownfields redevelopment grants is subject to availability of funding.
- b) The Agency shall take action on all pending complete brownfields redevelopment grant applications at the close of each of two grant application periods per year, the first ending January 1 and the

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second ending July 1, except as provided in subsection (c) of this Section.

- c) The Agency may award and fund any grant prior to the end of a grant application period provided that the grant applicant demonstrates that:

- 1) the brownfields redevelopment project for which the grant is sought is specific to one or more sites;
- 2) remediation of the project site or sites is necessary to assure protection of human health and the environment; and
- 3) failure to fund the grant prior to the end of the grant application period would substantially impair implementation of the project.

- d) If an applicant submits an incomplete application, the Agency shall so notify the applicant in writing, identifying the information that is lacking.

- e) The Agency shall, no more than 90 days after the close of each grant application period, or in accordance with subsection (c) of this Section, in writing, notify each applicant with a pending application:

- 1) If funding is available for brownfields redevelopment grants, of that applicant's selection or rejection for a grant award; or
- 2) If funding is not available, of the unavailability of grant assistance.

- f) Municipalities cannot obtain grant assistance by default due to failure by the Agency to act within the time frame set forth in subsection (d) of this Section.

Section 885.220 Grant Award Acceptance

No more than 30 days after receipt of grant award selection notification, the grantee shall notify the Agency in writing of its acceptance. If the grantee fails to so notify the Agency, the grant award shall be null and void.

Section 885.225 Grant Agreement

- a) Upon receipt of written acceptance of a grant award, the Agency shall send to the grantee formal grant agreement documents, including:

- 1) A grant agreement to be signed by the Agency and the grantee;
- 2) A cover letter from the Agency, stating any errors identified by the Agency in the grant application;
- 3) A copy of the grantee's complete application, including budget forms; and
- 4) A form on which the grantee is to state the grantee's federal taxpayer identification number.

- b) The Agency shall not sign a grant agreement until the grantee has corrected any errors identified by the Agency in the grant application and has signed the grant agreement.

- c) The grant takes effect on the date that the Agency signs the grant agreement.

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- d) Once signed by both the Agency and the grantee, the grant agreement, comprising the written grant agreement documents, and any amendments thereto, shall govern the grant.

- e) The Agency shall keep the original grant agreement documents and provide a copy to the grantee.

- f) The grant agreement may be amended in accordance with Section 885.230 of this Part.

Section 885.230 Amendments to Grant Agreement

- a) To implement a project change, the grantee must obtain a formal amendment to the grant agreement. The grantee may request an amendment to the grant agreement by submitting an amended grant application to the Agency at any point during the grant term.

- b) The grant agreement may be amended only by the mutual consent of the parties set forth in writing as a formal grant agreement amendment, signed and dated by the Agency and the grantee.

- c) The grantee may request amendments for project changes including, but not limited to:

- 1) Increasing the amount of State funds needed to complete the project;
- 2) Altering the scope of the grant, as agreed to at the time of the grant award, e.g., by changing methodologies or personnel to be used; or
- 3) Extending any contractual or grant completion date for the project.

- d) No more than 90 days after receipt of an amended grant application, the Agency shall notify the grantee in writing of its approval or rejection of the requested amendment to the grant agreement.

- e) The Agency shall not approve any amendment to the grant agreement in violation of the limitations on grants set forth in Section 885.200 of this Part.

- f) The Agency shall approve an amendment to the grant agreement, to the extent that the Agency may approve the amendment consistent with Section 885.200 of this Part, if the grantee makes a showing that:

- 1) The original project cost approval was based on estimated costs or contractor bids, where the actual costs or contractor bids are over or under the estimated costs;
- 2) Amendments to State statutes have affected or will affect the project costs;
- 3) A project element was inadvertently omitted; or
- 4) An approved project element has been found unnecessary.

- g) If the Agency approves a requested amendment to the grant agreement, the Agency shall send a formal amendment signature page and a copy of the amended grant application to the grantee. After the grantee signs and returns the signature page, the Agency shall date and sign the signature page and attach the amended grant application, the notification of Agency approval of the requested amendment and the

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signature page to the grant agreement documents.

Section 885.235 Cost Criteria

- a) The Agency shall approve for reimbursement to the grantee, under the terms set forth in Section 885.240 of this Part, only costs meeting the following criteria:

- 1) Costs within the scope of the redevelopment project for which the grant was awarded;
 - 2) Costs that are reasonable and necessary, including, but not limited to:
 - A) Agency oversight costs of participating in the Site Remediation Program of Title XVII of the Act;
 - B) Environmental consultant oversight services;
 - C) Remedial investigation and design;
 - D) Development and implementation of activities necessary to establish remediation objectives;
 - E) Laboratory services necessary to determine site characterization and to establish cleanup objectives;
 - F) Installation and operation of groundwater investigation and groundwater monitoring wells;
 - G) Development and implementation of a soil sampling plan;
 - H) Development of a groundwater corrective action system;
 - I) Development of a soil corrective action plan;
 - J) Costs associated with seeking reimbursement from the brownfields redevelopment grant program, including, but not limited to, completion of documentation for partial or final payment; and
 - K) Purchase costs for non-expendable materials, supplies, equipment or tools purchased and used for the brownfields project;
 - 3) Costs in amounts up to, but not exceeding, the total amount of the grant award;
 - 4) Costs incurred on or after the date the grant agreement is executed;
 - 5) Costs incurred without knowing violation of any State or federal law or regulation; and
 - 6) Costs incurred under a contract or subcontract in conformance with Section 885.255 of this Part.
- b) Costs the Agency shall not approve for reimbursement because they are not necessary for completion of the work required under the grant agreement, include, but are not limited to:
- 1) Costs or losses resulting from business interruption at the specific site;
 - 2) Costs for corrective action activities and associated material or services;
 - 3) Costs associated with improperly installed sampling or monitoring wells;

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- 4) Costs associated with improperly collected, transported or analyzed laboratory samples;
- 5) Interest or finance costs charged as direct costs; and
- 6) Insurance costs charged as direct costs.

Section 885.240 Grant Payment

- a) The Agency shall use reimbursements to the grantee as the method of payment of grant funds.
- b) To obtain reimbursement from the brownfields redevelopment grant program, the grantee shall submit a request for reimbursement in writing to the Agency, with documentation, including the activities performed and a breakdown of the costs incurred, to demonstrate that the grantee has incurred the costs for which reimbursement is sought.
- c) Grant funds must be expended no more than three years after the effective date of the grant award.
- d) The grantee may submit an initial request for reimbursement at any time after the costs for which reimbursement is sought have been incurred. Subsequent requests for reimbursement must be spaced at least 90 days apart, except that the grantee may submit a final reimbursement request no more than 90 days after the most recent prior request.
- e) The Agency shall use the criteria set forth in Section 885.235 of this Part in determining whether to approve reimbursement to the grantee of costs included in each request for reimbursement.
- f) If grant funds are available, the Agency shall send a voucher for payment of an approved reimbursement request to the Comptroller's office no more than 90 days after receipt of the request.
- g) If grant funds are unavailable, the Agency shall so notify the grantee, no more than 90 days after receipt of a request for reimbursement, and shall send vouchers for payment of approved reimbursement requests to the Comptroller's office when funds become available.

Section 885.245 Grantee Responsibilities

- a) The grantee must submit quarterly progress reports to the Agency during the term of the grant. Each progress report should be a short narrative of the activities performed and the dates they were performed during that quarter.
- b) The grantee must submit a detailed final report to the Agency at the end of the grant term. In the final report, the grantee must describe how the tasks described in the project plan submitted by the grantee have been fulfilled.
- c) If the grantee fails to timely submit quarterly progress reports or a final report, the Agency may impose any of the sanctions set forth in Subpart C of this Part.

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Section 885.250 Evaluation of Performance

The Agency shall oversee each grantee's performance under the brownfields redevelopment grant program in the following manner:

- a) The Agency shall evaluate grantee performance and progress toward completing the approved project plan.
- b) If the Agency's evaluation reveals that the grantee is not in compliance with one or more of the terms, conditions or limitations of the grant agreement, the Agency shall attempt to resolve the situation through negotiation. The Agency and the grantee shall put any settlement reached in writing as a formal amendment to the grant agreement in accordance with Section 885.230 of this Part.
- c) If resolution is not achieved, the Agency may impose any of the sanctions set forth in Subpart C of this Part.

Section 885.255 Requirements Applicable to Contracting and Subcontracting

- a) The following conditions and limitations shall apply to all contracts and subcontracts entered into by the grantee:

- 1) The grantee must use a freely and openly competitive bidding process in contracting and must require the same of any contractor in subcontracting;
- 2) Only fair and reasonable profits may be earned by contractors and subcontractors in contracts and subcontracts under Agency grants. Factors to be considered in determining a fair and reasonable profit shall include project-related: material acquisition costs; labor costs; management costs; contract risks; capital investments; degree of independent development; and cost control and record keeping efforts. The determination of a fair and reasonable profit shall not be based upon the application of a predetermined percentage factor;
- 3) The grantee, rather than the Agency, is responsible for the administration and successful accomplishment of the project for which the Agency grant is awarded. The grantee, rather than the Agency, is responsible for the settlement and satisfaction of all contractual and administrative issues arising out of contracts and subcontracts entered into under the grant. This responsibility includes, but is not limited to, issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protest of award, claims, disputes and other procurement matters;
- 4) Any contract or subcontract must include a provision allowing project-related access, in accordance with Section 885.400 of this Part;
- 5) Any contract or subcontract must provide that the Agency or any authorized representative shall have access to any books, documents, papers, and records, including computer-generated documents, of the contractor or subcontractor that are pertinent

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to the project, for the purpose of making an audit, examination, excerpts, and transcriptions thereof; and

- 6) Neither the Agency nor the State shall be a party to any contract or subcontract, solicitation, or request for proposals.

- b) No contract or subcontract shall be awarded to any person or organization that does not:

- 1) Have adequate financial resources, experience, organization, technical qualification, and facilities for performance of the subagreement, or a firm commitment or arrangement to obtain such;
- 2) Have staffing sufficient to comply with the completion schedule for the project;
- 3) Have a demonstrated record of integrity, good judgment, and performance, including any prior performance under grants or contracts with the federal or any state government;
- 4) Have an established financial management system and audit procedure;
- 5) Maintain a property management system that provides procedures for the acquisition, maintenance, safeguarding and disposition of all project-related property; and
- 6) Conform to the civil rights law, equal employment opportunity law, and labor law requirements, as well as all other statutes of the State.

Section 885.260 Agency Cost Recovery

- a) If the Agency undertakes a response action at the site of an approved project, the Agency will not seek recovery of its costs under Section 22.2 or Title XVII of the Act from a grantee as an owner or operator if the grantee's status as an owner or operator is based solely on the grantee's:
 - 1) execution of a grant agreement; or
 - 2) implementation of an approved project.
- b) The exclusion provided under subsection (a) shall not apply to any grantee who has caused or contributed to the release or threatened release of a hazardous substance or pesticide from the facility, and such grantee shall be subject to the provisions of the Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under Sections 22.2(f) and 58.9 of the Act. (Section 22.2(h)(2)(H) of the Act)

SUBPART C: NONCOMPLIANCE WITH GRANT CONDITIONS

Section 885.300 Agency Action for Noncompliance with Grant Conditions

- a) In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to a brownfields redevelopment grant or other violation of this Part, the Agency may:

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- 1) Revoke the grant and recover all grant funds disbursed;
 - 2) Terminate the grant;
 - 3) Suspend all project work; or
 - 4) Take such other action as the Agency is authorized to take.
- b) No action shall be taken under this Section without prior oral or written consultation with the grantee.
- c) In determining whether to take action and which action to take under this Section, the Agency shall consider factors including, but not limited to:
- 1) the severity of the violation(s);
 - 2) the number of violations by the grantee;
 - 3) whether the violation is a continuing one;
 - 4) whether the grantee can remedy the violation; and
 - 5) whether the grantee and any contractor or subcontractor remain capable of complying with the approved work project.
- d) Recovery actions under this Section shall be taken pursuant to the Illinois Grant Funds Recovery Act [30 ILCS 705].

Section 885.305 Project Termination by Grantee

- a) The grantee may request the termination of an incomplete project for which a grant has been awarded only for good cause.
- b) The Agency shall review the grantee's request to terminate a project and make a finding, no more than 90 days after the date of receipt of the request to terminate, as to good cause. Good cause shall include, but not be limited to:
 - 1) A change in grant program requirements or priorities;
 - 2) Lack of adequate funding; or
 - 3) Advancements in technology.
- c) If the Agency finds that the grantee's request to terminate the project is for good cause, it shall terminate the grant, effective upon the date the request to terminate the project was received by the Agency. The grantee may keep all grant funds previously paid.
- d) If the Agency finds that the grantee's request to terminate the project is without good cause, the grant shall be revoked and the grantee shall return to the State all grant funds previously paid. The grantee shall return such funds no more than 30 days after the date the grant is revoked by sending a certified check to the Brownfields Redevelopment Fund.

Section 885.310 Stop-Work Orders

- a) The Agency may, for any violation of this Part, issue a written stop-work order, requiring the grantee to stop all or any part of the project work, effective for a period of not more than 30 days from the date of the order, or for any further period to which the parties may agree in writing. The Agency shall include in any stop-work order a list of the project activities to which the order applies.

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- b) Upon receipt of a stop-work order, the grantee must comply with its terms and stop the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- c) No more than 30 days after the date of the stop-work order, or within any extension of that period to which the parties agree in writing, the Agency shall:
 - 1) Upon resolution of the violation leading to the stop-work order, cancel the stop-work order; or
 - 2) Terminate the portion of the grant covered by the stop-work order, as provided in Section 885.300.
- d) If a stop-work order issued under this Section is canceled, or the effective period of the order or any written extension thereof expires, the grantee shall resume work. The grantee may request an amendment to the grant agreement, in accordance with Section 885.230 of this Part, to obtain an adjustment in the grant amount accounting for the work stoppage.
- e) The grantee may not obtain reimbursement for costs associated with a stop-work order unless the Agency authorizes reimbursement in writing.

Section 885.315 Covenant Against Contingent Fees

- a) The grantee must warrant, as part of the grant agreement, that no person has been employed or retained to solicit or secure a grant under this Part upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.
- b) For breach or violation of this warranty, the Agency shall have the right to revoke the grant without liability or, in its discretion, to deduct from the grant award, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Section 885.320 Recovery of Grant Funds

If the Agency determines that any grant funds are being misspent or improperly held by the grantee, the Agency or the Attorney General shall have the authority to recover those funds and take any action authorized by the Illinois Grant Funds Recovery Act [30 ILCS 705].

Section 885.325 Indemnification

The grantee, rather than the Agency, shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency, or third persons, and any injury to or death of any persons (including employees of the grantee) caused by or arising out of, or occurring in connection with, the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, save harmless and defend the State and the Agency from all claims for any such loss, damage, injury, or death. However, a grantee's execution of a grant agreement, or implementation of an approved project, does not, in itself, render the

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grantee an owner or operator for purposes of 415 ILCS 5/22.2(h)(2), or under regulations promulgated pursuant to 415 ILCS 55/8. The grantee shall require any contractor or subcontractor engaged by the grantee to agree in writing to look solely to the grantee for performance of its contract or subcontract with the grantee and for satisfaction of any and all claims arising thereunder.

Section 885.330 Statutory Requirements

The grantee is solely responsible for assuring compliance with all statutory requirements, including, but not limited to, the Local Government Professional Services Selection Act [50 ILCS 510] and the Construction Contract Indemnification for Negligence Act [740 ILCS 35].

SUBPART D: ACCESS, AUDITING AND RECORDS

Section 885.400 Access

- a) The Agency or any authorized representative shall have access to the premises where any portion of the project for which the grant was awarded is being performed, both during normal business hours and at any other time project-related work is being performed.
- b) Subsequent to the end of the grant term, the Agency or any authorized representative shall have access to the project records, as defined in Section 885.405(a) of this Part, to the full extent of the grantee's right to access, during normal business hours.
- c) If the Agency or any authorized representative is denied access in violation of this Section, the Agency shall provide notice in writing to the grantee that failure to provide access within 10 days will be cause for:
 - 1) Termination of the grant pursuant to Subpart C of this Part;
 - 2) Refund to the State of any unexpended grant funds in the possession of the grantee; and
 - 3) Refund of any grant funds previously expended by the grantee, contractor, or subcontractor found in noncompliance with this Section.

Section 885.405 Audit and Records

- a) The grantee shall maintain books, records, documents, reports and other evidentiary material, using accounting procedures and practices that conform to generally accepted accounting principles, to account properly for:
 - 1) The receipt and disposition by the grantee of all financial assistance received for the project, including both State assistance and the local share; and
 - 2) The costs charged to the project for which the grant has been awarded, including all direct and indirect costs of whatever nature incurred in performance of the project.

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- b) The grantee's facilities, or such facilities as may be engaged in the performance of the project for which the grant has been awarded, and the grantee's records shall be subject to inspection and audit by the Agency or any authorized representative at the times specified in Section 885.400 of this Part.
- c) The grantee shall preserve records and make records available to the Agency or any authorized representative:
 - 1) Until expiration of 3 years from the date of final payment under this grant;
 - 2) For such longer period, if any, required by applicable statute or regulation;
 - 3) For records relating to grant work that has been terminated, for a period of 3 years from the date of any resulting final termination settlement; or
 - 4) For records relating to disputes and/or appeals, litigation or the settlement of claims arising out of the performance of the project for which the grant was awarded, or costs and expenses of the project to which exception has been taken by the Agency or any of its duly authorized representatives, until disposition of such appeals, litigation, claims, or exceptions.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Application
- 2) Code Citation: 89 Ill. Adm. Code 557
- 3) Section Numbers: 557.40
Adopted Action: Amended
- 4) Statutory Authority: Implementing and authorized by Sections 3(a),(b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].
- 5) Effective Date of Amendment: December 28, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 31, 1998, 22 Ill. Reg. 14035
- 10) Has JCAR Issued a Statement of Objections to these Amendments? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rule replace an Emergency Rule(s) currently in effect? No
- 14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Amendments: The amendment requires that a parent sign the application when the customer is under age 18. The two new paragraphs (b) and (c) bring this rule in line with the Age of Majority Law.

16) Information and answers to questions regarding this adopted rule shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62762
(217) 785-9772

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 557
APPLICATION

Section

- 557.10 General Applicability
557.20 Geographical Customer Assignment
557.30 Application Required
557.40 Who May Sign
557.50 Assistance in Attaining Necessary Financial Support
557.60 Application for Services by DHS-ORS Employees, Individuals Holding Contracts with DHS-ORS, DHS-ORS Advisory Council Members, Family Members of DHS-ORS Employees or Close Friends of DHS-ORS Employees

AUTHORITY: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

SOURCE: Adopted at 9 Ill. Reg. 8755, effective June 10, 1985; amended at 11 Ill. Reg. 820, effective December 23, 1986; amended at 11 Ill. Reg. 15220, effective August 31, 1987; amended at 12 Ill. Reg. 12099, effective July 7, 1988; amended at 13 Ill. Reg. 16552, effective October 10, 1989; emergency amendment at 17 Ill. Reg. 11654, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20341, effective November 15, 1993; amended at 19 Ill. Reg. 1135, effective January 23, 1995; amended at 19 Ill. Reg. 2473, effective February 21, 1995; amended at 19 Ill. Reg. 10706, effective July 11, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 10044, effective DEC 28 1998.

Section 557.40 Who May Sign

- a) The Application must be signed by the customer client. The only exception to this is when the customer client is competent and at least 18 ~~eighteen~~ years of age, but documentation in the case file indicates that the customer client is physically unable to sign his/her signature, in which case the counselor will write a statement indicating the reason the customer client is unable to sign the Application. This statement must be signed by a witness to attest to its validity.
- b) If the customer is under 18 years of age, unless emancipated in accordance with the Emancipation of Mature Minor Act [750 ILCS 30], the application must also be signed by the parent or legal guardian.
- c) If the customer is a person for whom a legal guardian of the person has been appointed, the legal guardian must also sign the application.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 23 Ill. Reg. 6043 effective DEC 28 1998)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Award and Monitoring of Funds
- 2) Code Citation: 77 Ill. Adm. Code 2030
- 3) Section Numbers: Adopted Action:
2030.620 Repeal
2030.810 Amended
- 4) Statutory Authority: Authorized by the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].
- 5) Effective Date of Amendments: December 28, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 10, 1998, 22 Ill. Reg. 11669
- 10) Has JCAR Issued a Statement of Objections to these Amendments? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an Emergency Rule(s) currently in effect? Yes
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Amendments: Section 2030.620 is being repealed in conjunction with the Department efforts to consolidate Audit Requirements. The new Audit Requirements will assure compliance with State and Federal laws and regulations. Section 2030.810 is being amended to change "one visit" requirement to "periodic". This will allow DHS to concentrate its monitoring efforts on agencies with multiple contracts or large funding amounts.
- 16) Information and answers to questions regarding this adopted amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
 CHAPTER X: DEPARTMENT OF HUMAN SERVICES
 SUBCHAPTER C: ADMINISTRATION OF FUNDING

PART 2030
 AWARD AND MONITORING OF FUNDS

SUBPART A: GENERAL

Section

2030.10 Applicability
 2030.20 Definitions
 2030.30 Exceptions
 2030.40 Special Award Conditions

SUBPART B: AWARD CRITERIA AND PROCEDURE

Section

2030.100 Recipient Eligibility
 2030.105 Services Eligible for Grant-in-Aid Funding
 2030.107 Services Eligible for Purchased-Care or Fee-for-Service Funding
 2030.110 Other Activities for Which Awards May be Made
 2030.115 Award Process
 2030.120 Department Budget Planning Requirements
 2030.130 Provider Plan/Recipient Budget
 2030.140 Award Document
 2030.150 Subawards
 2030.160 Modification or Amendment of the Award Document

SUBPART C: DEPARTMENT APPROVAL FOR PROGRAMMATIC AND BUDGET REVISIONS
 AND FOR COSTS REQUIRING PRIOR APPROVAL

Section

2030.210 Process
 2030.220 Programmatic Changes
 2030.230 Budget Revision

SUBPART D: COST PRINCIPLES/ALLOWABILITY

Section

2030.310 Applicability
 2030.320 Allowable Costs
 2030.330 Approval of Costs
 2030.340 Allocation of Costs/Direct and Indirect Costs
 2030.350 Costs Allowable with Prior Approval of the Department
 2030.360 Unallowable or Limited Costs

SUBPART E: NON-DEPARTMENTAL FUNDING

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Section
 2030.410 Non-Department Funding
 2030.420 Record Keeping
 2030.430 Program Income
 2030.440 Maintenance of Effort
 2030.450 Client Fees

SUBPART F: MATCHING AND COST PARTICIPATION REQUIREMENTS

Section

2030.510 General
 2030.520 Definitions
 2030.530 Eligible Costs
 2030.540 Criteria for Contributions
 2030.550 Valuation of In-Kind Contributions

SUBPART G: FINANCIAL MANAGEMENT

Section

2030.610 Accounting and Financial Management Requirements
 2030.620 Audit Requirements (Repealed)

SUBPART H: FINANCIAL REPORTING

Section

2030.710 General
 2030.720 Quarterly Revenue/Expense Reports--Grant-in-Aid Recipients
 2030.730 Lapsed Grant-in-Aid Funds
 2030.740 End of the Year Report
 2030.750 Purchased-Care/Fee-for-Service Invoicing and Auditing
 2030.760 Exempt Recipients

SUBPART I: MONITORING AND REPORTING OF PROGRAM PERFORMANCE

Section

2030.810 Site Visits
 2030.820 Reports
 2030.830 Underutilization
 2030.840 Criminal Justice System Referrals
 2030.850 Prior Submissions

SUBPART J: FUND DISBURSEMENT

Section

2030.910 General

SUBPART K: TERMINATION, SUSPENSION, CLOSEOUT

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- of the audit:
- d) in order to facilitate meeting filing requirements, fund recipients are encouraged to contract with certified public accountants before the end of the fiscal year.
- e) A request for an extension of time to file an audit report must be submitted in writing and requires prior written approval of the Department's Chief Auditor. A request for an exception to these audit requirements due to unusual circumstances must be submitted in writing and requires the prior written approval of the Department. Such requests will only be approved when they result from circumstances beyond the control of both the agency and its certified public accountant or when approval would be clearly to the benefit of the State.
- f) The certified public accountant shall communicate in written form material weakness in the fund recipient's internal controls when it impacts on the Department's funding. Copies of these communications are to be forwarded to the Department with the audit report. The fund recipient's comments or recommendations, including a plan for corrective action, are also to be submitted to the Department.
- g) The audit report shall contain disclosures of any transactions with related parties or organizations.
- h) The following supplementary financial information shall be included in the audit reports for the twelve months ended June 30: For fund recipients with a fiscal year close of other than June 30, this information is to be for the twelve months that ended the previous June 30. Failure to include such information shall make the report unacceptable.
- i) Schedule of income by source and by program
- A) This schedule is to be developed using a format prescribed by the Department. This schedule must display revenue by source, using the classifications on the provider plan. Revenues restricted to a program or earned by a program are to be displayed by program.
- B) Individual sources of income over \$5,000 per source shall not be combined. Example: Funds received from several State or Federal agencies shall not be combined into one classification, such as "State of Illinois" or "Federal Government."
- j) Schedule of operating expenses by program
- A) In Department instructions and forms, the term "operating fund" is all inclusive of funds a fund recipient may have in its accounting records except those in a capital fund(s).
- B) The certified public accountant should develop the expenses by program statement using the operating expense categories as set forth in the provider plan or the recipient's Department approved budget. The statement is to include funded and unfunded programs with the funded programs to be identified by the Department's program title and number.

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- The statement shall compare budgeted and actual amounts for each funded program and shall include the allocation of administrative expenses to the various programs.
- e) The certified public accountant should clearly establish a position regarding the supplementary financial information presented in the schedules of income by source and by program and expenses by program operating fund. This can be done either by extending the overall opinion of the basic financial statements or by a supplementary opinion. If the certified public accountant determines that the additional procedures necessary to permit a supplementary opinion on the supplementary financial information would materially increase the audit time, the certified public accountant may, alternatively, state the source of the information and the extent of the examination and responsibility assumed, if any.
- B) The supplementary schedules are always to agree with or be reconciled to the audited financial statements unless a fund recipient's fiscal year ends on a date other than June 30:
- h) Failure to meet these audit requirements will result in suspension of funding.
- i) Confirmation of Department payments made to a fund recipient required by the certified public accountant during the course of the audit are to be secured from the Department's Division of Management and Budget. In addition to audits by independent certified public accountants, compliance audits of selected fund recipients will be performed by or for the Department's Office of Internal Audits. Such audits shall be performed in accordance with procedures for Department audits and the processing of reports resulting from them.
- k) The Department will also perform desk reviews on annual certified audit reports submitted to the Department.

(Source: Repealed at 23 Ill. Reg. 488, effective
DEC 28 1998)

SUBPART I: MONITORING AND REPORTING OF PROGRAM PERFORMANCE

Section 2030.810 Site Visits

- a) The Department shall monitor performance under the award document and shall conduct periodic visits at least one site visit per year to each provider. The frequency of any other visits shall be determined by the nature, size, and complexity of the fund supported activity, and other appropriate factors by which the Department determines that on-site review is required to monitor provider performance. The site visit is for the purpose of evaluating performance under the award document. It shall focus on:

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NOTICE OF ADOPTED AMENDMENTS

- 1) actual accomplishment of and/or progress towards goals and objectives established by the award document for the term of review;
 - 2) reasons why established goals and objectives were not met;
 - 3) accountability for Department funds, including assessment of necessity and reasonableness of costs, budget performance, cash management, accounting practices, financial management and long range planning, analysis and explanation of cost overruns on high cost units;
 - 4) quality and effectiveness of services provided during the term of review, including effectiveness of community networks;
 - 5) assurance that time schedules and projected work units by time periods are being met; and
 - 6) compliance with award document conditions.
- b) Providers shall make available to representatives of the Department all financial records, client attendance and/or service records, and case records and other documentation related to the award activities.

(Source: Amended at 23 Ill. Reg. 488 - effective

DEC 28 1998

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Personnel
- 2) Code Citation: 59 Ill. Adm. Code 104
- 3) Section Numbers: Adopted Action:
104.20 Repealed
- 4) Statutory Authority: Implementing and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and by Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].
- 5) Effective Date of Repealer: December 28, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 14, 1998, 22 Ill. Reg. 14514
- 10) Has JCAR issued a Statement of Objections to this Repealer? No
- 11) Difference(s) between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.
- 13) Will this repealer replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Repealer: Section 104.20 is being repealed and replaced by 59 Ill. Adm. Code 50, Office of the Inspector General Investigations of Alleged Incidents of Abuse and Neglect in Community Agencies (59 Ill. Adm. Code 50) which was proposed at 22 Ill. Reg. 95.
- 16) Information and answers to questions regarding this adopted repealer shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED REPEALER

100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment
- 2) Code Citation: 89 Ill. Adm. Code 686
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
686.25	New Section
686.250	New Section
686.260	New Section
686.270	New Section
686.280	New Section
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) Effective Date of Amendments: December 22, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 14, 1998 , 22 Ill. Reg. 14518
- 10) Has JCAR Issued a Statement of Objections to these Amendments? No
- 11) Difference(s) between proposal and final version: Minor technical changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an Emergency Rule(s) currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Amendments: This amendment adds a new subsection to Subpart A: Personal Assistants. This new material explains to the customers of the Home Services Program that they may require an applicant for employment by the customer as the P.A. to submit to a criminal background investigation, the cost of which will be paid by the Home Services Program. The decision to request a criminal background check is solely the customer's. Any information received is sent to the customer.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS
TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686
PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section
686.10
686.20
686.25
686.30
686.40

Personal Assistant (PA) Requirements
Services Which May Be Provided by a PA
Criminal Background Check
Annual Review of PA Performance
Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section
686.100
686.110
686.120
686.130
686.140

Adult Day Care (ADC) Provider Requirements
Services Which Must Be Provided by ADC Providers
Annual Compliance Review of ADC Providers
Appeal of Compliance Review for ADC Providers
Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section
686.200
686.210
686.220
686.230
686.240
686.250
686.260
686.270
686.280

Homemaker Service Provider Requirements
Services Which Must Be Provided by Homemaker Agencies
Annual Compliance Review of Homemaker Agencies
Appeal of Compliance Review for Homemaker Agencies
Payment for Homemaker Services
Financial Reporting of Homemaker Service
Unallowable Costs for Homemaker Service
Minimum Direct Service Worker Costs for Homemaker Service
Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section
686.300
686.310
686.320
686.330
686.340
686.350

Electronic Home Response Services (EHRs) Provider Requirements
Services Which Must Be Provided by EHRs Providers
Minimum Specifications for EHRs Equipment
Annual Compliance Review of EHRs Providers
Appeal of Compliance Review for EHRs Providers
Rate of Payment for EHRs Services

DEPARTMENT OF HUMAN SERVICES
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The amendments of the Homemaker Services Subpart were made to make these sections consistent with the Community Care Program requirements of the Department on Aging (DOA). Both DHS and DOA use many of the same Homemaker Service Providers and the need for consistency in reporting financial data was pointed out in recent compliance reviews. These amended sections are the same as in place within DOA.

16) Information and answers to questions regarding this adopted rule shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
217/785-9772

The full text of Adopted Amendment(s) begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

Section
686.600 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Assistive Equipment Provider Requirements
686.710 Provision of Assistive Equipment
686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPIRE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Provider Staffing Requirements, Qualifications, and Training
686.930 Monitoring and Liability of Provider
686.940 Provider Compliance Requirements

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg.

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9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective DEC 22 1998

SUBPART A: PERSONAL ASSISTANTS

Section 686.25 Criminal Background Check

- a) A Home Services Customer may require any P.A. candidate to submit to a criminal background investigation and to successfully complete a criminal background investigation as a condition of being selected as the P.A. to that Customer. The cost of the background investigation may be deducted from the amount that the Customer receives through the DHS Home Services Program.
- b) In the event that a Customer elects to require a P.A. candidate to submit to a criminal background investigation, the Customer shall be obligated only to inform DHS of his/her decision and DHS will provide the Customer an appropriate form that the Customer may file with the Illinois State Police to initiate the criminal background investigation. The results of the criminal background investigation will be sent directly to the Customer, and the Customer shall have no obligation to share the results of the investigation with DHS. Nothing contained herein shall restrict a Customer from extending a conditional offer of employment to any P.A. candidate pending the results of the background investigation.

(Source: Added at 23 Ill. Reg. 499, effective

DEC 22 1998)

SUBPART C: HOMEMAKER SERVICES

Section 686.250 Financial Reporting of Homemaker Service

- a) The Homemaker Agencies will be required to submit a cost report, the Direct Service Worker Cost Certification, as specified below. The report must be based upon actual, documented expenditures.
- 1) The report must be submitted annually, within 6 months after the end of the reporting period, and may be prepared as a part of the Homemaker Agency's annual audit.
 - 2) The report may be on either a calendar year basis or the Homemaker Agency's fiscal year, however, once a Homemaker Agency has elected to base the report on a calendar or fiscal year, this election can be changed only upon written approval of the Department.
- b) The cost report must demonstrate that the Homemaker Agency has expended a minimum of 73% of the total revenues due from the Department, to include the client incurred expense, for Direct Service Worker costs as enumerated in Section 686.280.

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- c) The cost report shall identify the Homemaker Agency's expenditures for Direct Service Worker costs of Program Support costs, and Administrative costs as enumerated in Section 686.280.
- d) The accuracy of the report must be attested to by an authorized representative of the Homemaker Agency.
- e) The Department reserves the right to require the Homemaker Agency to engage an independent certified public accounting firm to verify the information and data submitted by the Homemaker Agency if the Department is in possession of evidence to suggest the information and data submitted is inaccurate, incomplete or fraudulent. This audit will be performed at the Homemaker Agency's expense.

(Source: Added at 23 Ill. Reg. 499 effective 1/1/98)

Section 686.260 Unallowable Costs for Homemaker Service

Certain costs shall not be considered by the Department in establishing a fixed rate of reimbursement for homemaker service:

- a) expenses resulting from transactions with related parties/parent organizations that are greater than the going market cost of the transactions to the provider;
- b) non-straightline depreciation;
- c) bad debts;
- d) special benefits to owners, including owner and key-man life insurance;
- e) compensation to non-working owners and officers;
- f) discounts, rebates, allowances, and charity grants offered by the agency;
- g) entertainment expenses;
- h) fund-raising;
- i) legal fees for litigation with governmental agencies;
- j) awards, grants and gifts to individuals;
- k) fines and penalties;
- l) contingency funds; and
- m) losses on other grants and contracts.

(Source: Added at 23 Ill. Reg. 499 effective 1/1/98)

Section 686.270 Minimum Direct Service Worker Costs for Homemaker Service

- a) Homemaker Agencies are required to expend a minimum of 73% of the total revenues due from the Department, to include the client incurred expense, for Direct Service Worker costs, as enumerated in Section 686.280, during a reporting year.

- 1) This percentage is to be adhered to on a statewide basis.
- 2) The remaining 27% of the total revenues may be spent by the

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Homemaker Agencies at their discretion on Administrative or Program Support costs, also delineated in Section 686.280.

- b) Failure of the Homemaker Agency to meet the requirements in subsection (a) above may result in the following:

- 1) Within 60 days, the Homemaker Agency will be required to submit a corrective action plan that shall include Homemaker Agency payments to current direct service workers in an amount that will, in total, bring the Homemaker Agency into compliance with the requirements in subsection (a) above. After the Department's review and approval of the corrective action plan, the Homemaker Agency shall implement and observe it.
- 2) Failure by the Homemaker Agency to submit and/or observe a corrective action plan that is acceptable to DHS shall result in termination after 60 days notice.

(Source: Added at 23 Ill. Reg. 499 effective 1/1/98)

Section 686.280 Cost Categories for Homemaker Services

Providers of homemaker service for which a fixed rate is established will provide for cost reporting based on the following categories:

- a) Direct Service Worker costs (costs paid to or on behalf of direct service workers) that may include:
 - 1) wages, time paid on behalf of the worker (i.e., vacation, sick leave, holiday and personal leave);
 - 2) health coverage, life insurance and disability insurance;
 - 3) retirement coverage;
 - 4) FICA;
 - 5) uniforms;
 - 6) worker's compensation;
 - 7) FUTA;
 - 8) travel time and travel reimbursement;
 - 9) unemployment insurance; and
 - 10) other costs approved, in advance, as direct service costs by the Department.
- b) Administrative Costs:
 - 1) personnel:
 - A) administrator;
 - B) assistant administrator;
 - C) accountant/bookkeeper;
 - D) clerical;
 - E) other office staff;
 - F) other personnel expenses;
 - 2) consultant:
 - A) auditors;
 - B) management consultants;
 - C) management fees from the parent organization;

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- 3) other related consultant costs;
 E) other consultant expenses;
 non-personnel:
 A) office supplies;
 B) office equipment (expense or depreciation based upon company policy);
 C) telephone/teletype;
 D) conferences, conventions, meeting expenses;
 E) subscriptions and reference materials;
 F) postage and shipping;
 G) advertising;
 H) outside printing and art work;
 I) membership dues;
 J) moving and recruiting;
 K) other general operating expenses;
 L) profit;
 4) occupancy:
 A) depreciation;
 B) amortization of leasehold improvements;
 C) rent;
 D) property taxes;
 E) interest;
 F) other related occupancy costs.
 c) Program Support Costs that include all allowable costs not specifically made a part of direct service costs or administrative costs. These may include:
 1) training expenses;
 2) malpractice insurance;
 3) direct service worker supervisor costs.

(Source: Added at 23 Ill. Reg. 100.000 effective
 DEC 31 1998)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Vending Facility Program for the Blind
 2) Code Citation: 89 Ill. Adm. Code 650
 3) Section Numbers: Adopted Action:
 650.130 Amendment
 4) Statutory Authority: Implementing The Randolph-Sheppard Vending Stand Act (20 USC 107) and authorized by "the Blind Persons Operating Vending Facilities Act [20 ILCS 2420/1]
 5) Effective Date of Amendments: December 28, 1998
 6) Does this rulemaking contain an automatic repeal date? No
 7) Does this amendment contain incorporations by reference? No
 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
 9) Notice of Proposal Published in Illinois Register: July 31, 1998, 22 Ill. Reg. 14073
 10) Has JCAR Issued a Statement of Objections to these Amendments? No
 11) Difference(s) between proposal and final version: None
 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
 13) Will this amendment replace an Emergency Rule(s) currently in effect? No
 14) Are there any amendments pending on this Part? No
 15) Summary and Purpose of Amendments: Section 650.130 Grievance Procedures for vendors, previously named the Director of DHS as the office authorized to render appeal decisions. As a result of the changes, 650.130 is amended to read "Associate Director" of ORS and not Director of DHS.
 16) Information and answers to questions regarding this adopted rule shall be directed to:

Ms. Susan Weir, Bureau Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor, Harris Bldg.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62762
(217) 785-9772

The full text of Adopted Amendment(s) begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER c: VOCATIONALLY RELATED PROGRAMS

PART 650

VENDING FACILITY PROGRAM FOR THE BLIND

Section

650.10	Definitions
650.20	Rights and Responsibilities of DHS-ORS as State Licensing Agency
650.30	Rights and Responsibilities of Vendors in the Program
650.40	Illinois Committee of Blind Vendors
650.50	Program Eligibility Requirements
650.60	Training
650.70	Certification of Vendors
650.80	Licensing of Vendors
650.90	Awarding of Facilities
650.100	Business Practices
650.110	Disciplinary Procedures for Vendors
650.120	Disciplinary Procedures for VR Clients in Initial Training
650.130	Grievance Procedures for Vendors
650.140	Set-Aside Funds
650.150	Leaves of Absence
650.160	Vending Facilities in Rest Area

AUTHORITY: Implementing the Randolph-Sheppard Vending Stand Act (20 USC 107) and authorized by the Blind Persons Operating Vending Facilities Act [20 ILCS 2420].

SOURCE: Amended August 31, 1973; codified at 6 Ill. Reg. 13790; amended at 8 Ill. Reg. 5285, effective April 16, 1984; amended at 9 Ill. Reg. 12347, effective August 5, 1985; amended at 10 Ill. Reg. 3058, effective February 1, 1986; amended at 10 Ill. Reg. 9814, effective May 21, 1986; amended at 13 Ill. Reg. 7465, effective May 1, 1989; emergency amendment at 13 Ill. Reg. 15849, effective September 26, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18937, effective November 16, 1989; Part repealed, new Part adopted at 15 Ill. Reg. 2740, effective February 5, 1991; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1107, effective ~~DEC 28 1998~~ DEC 28 1999.

Section 650.130 Grievance Procedures for Vendors

- a) Dissatisfaction of a vendor with any DHS action arising from the administration of the Program shall be appealed pursuant to 89 Ill. Adm. Code 510. A vendor may grieve discipline pursuant to the following procedures for Level I (Administrative Reviews) and Level II (Evidentiary Hearings). The action of grieving a suspension, not including an immediate suspension, to Level I or Level II shall stay

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the imposition of the discipline until the administrative remedies within DHS have been exhausted. A Level I Hearing is optional; a vendor may choose to go directly to a Level II Hearing and follow the procedures in subsection (c)(2) of this Section. A suspension shall be grieved by appealing directly to Level II.

b) Level I (Administrative Review)

In order to grieve an oral or written reprimand imposed per Section 650.110, DHS must receive a request for a Level I Hearing within 15 days of the date of receipt of notification that discipline is to be imposed. The vendor shall give notice in writing by certified mail to the Administrator, which notice shall state the reason for the grievance and the remedy being sought.

1) If the grievance is timely, the Administrator or designee shall, within five days, notify the vendor by certified mail of the time and place of the Level I Hearing, to be held between 10 and 15 days after receipt of the vendor's notice at the Springfield Administrative office of DHS. The Administrator, or designee, and vendor shall meet and attempt to resolve the grievance to their mutual satisfaction.

2) Within 10 days after the adjournment of the meeting the Administrator shall send the vendor a letter by certified mail stating DHS' position and summarizing the results of the hearing. The letter must cite:

- A) a statement of the basis upon which the decision was made;
- B) the applicable laws, rules, regulations and policies used;
- C) the name and address of the DHS Hearings Coordinator; and
- D) a statement that if the vendor is dissatisfied with the decision, a request for a Level II hearing must be received by the Hearings Coordinator within 15 days from the date of receipt of the Level I hearing decision notice. The request shall be in writing, addressed to the DHS Hearings Coordinator at P.O. Box 19429, Springfield, Illinois 62794-9429, and shall contain the reason for the Level II Hearing and propose four acceptable dates for the hearing, which dates shall be within 20 days after of the request.

c) Level II (Evidentiary Hearing)

1) If the vendor requests a review of an action where there has been no Level I Hearing, the request for a Level II Hearing must be received by the DHS Hearings Coordinator within 15 days after of the date of notification that discipline is to be imposed. The request shall also propose four acceptable dates for the hearing, which dates shall be within 20 days after of the request.

2) If the vendor has chosen to have a Level I Hearing and then requests a Level II Hearing, the Hearing Officer at the Level II Hearing shall review only those issues presented by the vendor or which are material and related to those presented in the Level I Hearing.

3) Within 5 days after of receipt of the request, the DHS Hearings

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Coordinator shall select one of the offered dates and notify the vendor by certified mail of the date and place for the Level II Hearing stating the Hearing Officer's name and address, and informing the grievant of all rights accorded pursuant to this Part.

4) DHS shall be represented by the Administrator or designee, who may be assisted by other staff including the DHS legal counsel.

5) At least three days prior to the hearing, the vendor and the Administrator must provide each other and the Hearing Officer with a list of witnesses and copies of documents not in the possession of the other party.

6) The following is the order of proceedings:

- A) presentation, argument and disposition of all preliminary motions and matters;
 - B) opening statements;
 - C) evidence presented by the vendor;
 - D) evidence presented by DHS;
 - E) rebuttal by either or both sides; and
 - F) closing statements.
- 7) The vendor and DHS are entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross examination of witnesses as may be required for a disclosure of all facts bearing on the issues.
- 8) The Hearing Officer
- A) The Level II Hearing shall be heard by an Impartial Hearing Officer appointed by the Hearing Coordinator from a list maintained by him/her.
 - B) The qualifications for a hearing officer are:
 - i) impartiality,
 - ii) an understanding of the applicable rules (89 Ill. Adm. Code 650),
 - iii) the ability to preside over the evidentiary hearing, and
 - iv) the ability to reach a recommendation based upon the facts presented at the evidentiary hearing and the applicable rules.

9) The Hearing Officer has the power to:

- A) control the conduct of the hearing to prevent irrelevant or immaterial discussion;
- B) rule upon all motions and other matters arising in the course of the hearing, including, but not limited to, admissibility of evidence; and
- C) require the parties, in an agreed upon time frame, at any stage of any hearing or after all parties have completed the presentation of their evidence, to present further evidence including, but not limited to, the production of any and all documents, books, papers and accounts the Hearing Officer deems pertinent or relevant to any issue.

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- 10) Any relevant evidence presented which is of a type commonly relied upon by reasonably prudent individuals may be admissible, i.e., any information not presented in the hearings previously which pertains to the issues raised in the grievance and has been made available to both parties within the agreed upon time.
- 11) DHS will make an audio tape recording of the proceedings and will provide the vendor with one copy upon request, at no cost. Upon request by a vendor, a braille or large print transcript will be provided at no cost.
- 12) The record of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.
- 13) The decision
- A) Within 15 days after the hearing is adjourned, the Hearing Officer shall provide a recommendation to the Associate Director of ORS DHS. The recommendation of the Hearing Officer shall be based upon the record of the hearing and shall set forth the principal issues and relevant facts adduced at the hearing; the applicable provisions in law and regulation; and a recommended action. It shall also contain findings of fact and conclusions with respect to each of the issues and basis therefore.
 - B) The recommendation may also set forth any remedial action necessary to resolve operational problems of the Program.
 - C) The Associate Director of ORS DHS shall make a decision as to the disciplinary action to be taken within 15 ~~fifteen~~ {15} days after of receipt of the recommendations. The Associate Director's, decision shall state the principal issues and relevant fact brought out at the hearing, pertinent provisions in law, regulation and Program procedures, the reasoning that led to the decision, and the vendor's right to appeal to the U.S. Department of Education per 34 CFR 395.13. A copy of the Hearing Officer's recommendations shall be attached to the Associate Director's letter. The Associate Director shall send copies of the decision by certified mail to the Hearing Officer, the vendor and his/her personal representative, and to the Administrator.
 - D) If the vendor is dissatisfied with the decision rendered after a Level II Hearing, the vendor may request, within 15 ~~fifteen~~ {15} days after of the receipt of such decision, that an arbitration panel be convened by filing a complaint with the Secretary of the United States Department of Education, as authorized by Section 5(a) of the Randolph-Sheppard Vending Stand Act (20 USC 8-8-6-107 et seq.) and 34 CFR 395.13 (1988).
- d) General Provisions for Level I and II Hearings
- 1) A vendor may only designate one personal representative at any

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- one time. DHS and the Hearing Officer must be notified by the vendor of the appointment of a representative by filing, no later than three days in advance of a hearing, a notice of appearance stating the representative's name, address and telephone number, identifying the vendor represented, and signed by the vendor.
- 2) Grievances by any party not directly aggrieved by the discipline cannot be heard by DHS pursuant to this Part.
 - 3) The vendor may request a reader, which DHS shall provide at its expense if it is necessary. Either brailled, large print or audio material, at the vendor's request, will be used as required.
 - 4) All meetings with the vendor pursuant to this Section must occur at a time and location convenient to both parties.
 - 5) All proceedings pursuant to this Section are to be confidential and not open to the general public unless requested to be so by the vendor.
 - 6) DHS will assume the administrative costs of the appeals, e.g., reader, and court reporter/transcription, but not costs personally incurred by the vendor because of the proceedings, e.g., legal fees, travel, witness costs, and room and board.
- e) Vendor's Rights Regarding a Grievance
- After a request for a hearing is received by DHS, the vendor must be informed of the right to:
- 1) review his/her file and other related documents, with the exception of information per Section 650.90 and confidential information;
 - 2) be represented by a personal representative who has filed a notice of appearance with DHS;
 - 3) an explanation of the grievance process as set forth in this Section;
 - 4) request a reader;
 - 5) withdraw the grievance at any time during the process, in which case the vendor cannot request a reopening of the grievance;
 - 6) a timely and impartial hearing;
 - 7) decline to appear for Level I or II Hearing, in which case a review of the case file and any new written information or evidence submitted by the grievant shall be examined and a decision made based on that review by the Hearing Officer;
 - 8) confidentiality of the proceedings as set forth in 89 Ill. Adm. Code 505.10; and
 - 9) have DHS employees directly involved in the appealed action present at the hearings, and to question them. However, if such employee(s) is no longer employed by DHS and declines to attend the hearing after DHS has made reasonable attempt to secure his/her attendance, the person most knowledgeable about the case shall attend.
- f) DHS Rights Regarding a Grievance
- DHS has the right to:

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- 1) refuse to hear grievances if not timely filed;
 - 2) have a DHS attorney present;
 - 3) cooperation by the vendor (e.g., responding to hearing officer questions, adhering to time frames provided in this Section);
 - 4) publish hearing summaries, with deletions as necessary to ensure a vendor's confidentiality; and
 - 5) consolidate for hearing all issues related to a vendor or to several vendors out of the same set of facts and circumstances.
- g) Conduct of the Hearings
- 1) A hearing shall not be adjourned until the Administrator or Hearing Officer is satisfied that all facts needed for a decision have been presented.
 - 2) Only evidence bearing directly on the issue under review may be introduced; only evidence which has been made available to the other party may be considered by the Administrator or Hearing Officer.
 - 3) It is DHS' responsibility to prove that a violation occurred. If the Hearing Officer determines that DHS failed to prove that a violation occurred, based on evidence and a review of applicable law and regulations, he/she may direct that the disciplinary action being grieved be removed from the vendor's file.
 - 4) All parties involved in the hearing must avoid undue delay caused by repetitive continuances so that the subject matter of the hearing may be resolved expeditiously. A hearing may for good cause shown (e.g., illness of a vendor or witness, crisis at a facility, severe weather), be continued by the Administrator or Hearing Officer. Notice of the request must be given in writing to the other party and to the Hearing Officer no less than 5 days prior to the scheduled hearing date (in the absence of an emergency).
- h) Use of the Record
- 1) Upon completion of the hearing, all records, recommendations, orders, and attached materials shall be placed in a permanent file. This file shall be confidential and only those DHS officials involved in the disciplinary process shall have access to them. In future cases, the legal representative of a vendor may examine such files, but only after the names, addresses, and identifying characteristics of any vendors involved have been removed.
 - 2) The Associate Director of ORS DHS reserves the right to submit the record of the Level II Hearing to the appropriate state or federal officials, together with a request that action be taken, if the record discloses that illegal conduct relating to the operation of the facility may have occurred.

(Source: Amended at 23 Ill. Reg. 603.20 effective 1/1/98)
(1/1/98)

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- 1) Heading of the Part: Proportionate Share Liability
- 2) Code Citation: 35 Ill. Adm. Code 741
- 3) Section Numbers:

741.100	New
741.105	New
741.110	New
741.115	New
741.120	New
741.125	New
741.130	New
741.135	New
741.140	New
741.145	New
741.200	New
741.205	New
741.210	New
741.300	New
741.305	New
741.310	New
741.315	New
741.320	New
741.325	New
741.330	New

Adopted Action:
- 4) Statutory Authority: 415 ILCS 5/27 and 5/58.9(d)
- 5) Effective Date of Rules: December 22, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal Published in Illinois Register: September 18, 1998, 22 Ill. Reg. 16425
- 10) Has JCAR issued a Statement of Objections to these rules? Yes
 - A) Date and Register citation to the objection: January 4, 1999, 23 Ill. Reg. 350
 - B) Date and Register citation of the agency's response: January 4, 1999, 23 Ill. Reg. 344

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C) Date agency submitted the response to JC&R: December 21, 1998

11) Differences between proposal and final version: Due to the amount of substantive changes made, the Board has not detailed all the minor typographical and editorial changes made.

In the Table of Contents, the following words were deleted in Section 741.120: "Resolution of Issues in".

In the Table of Contents, Section 741.130 was amended to read "Discovery After an Action is Filed".

In the Table of Contents, "741.135 Conduct of Hearings" was deleted and the remaining sections in Subpart A were renumbered.

In the Table of Contents, the heading for Subpart B was amended to read "SUBPART B: ALLOCATION OF PROPORTIONATE SHARES WHEN A COMPLAINT HAS BEEN FILED".

In the Table of Contents, Section 741.205 was amended to read "Burden and Standard of Proof".

In the Table of Contents, Section 741.210 was amended to read "Final Orders".

In the Table of Contents, Sections 741.215 through 741.235 were deleted.

In the Table of Contents, Section 741.320 was amended to read "Mediation".

In the Table of Contents, Section 741.324 entitled "Scheduling of Mediation and Mediation Conference" was deleted and the remaining sections in Subpart C were renumbered.

In Section 741.100, the following changes were made: "The purpose of this Part is to ~~define applicability and~~ establish procedures under Section 50-9--~~of the Act for the~~ which the Board will allocate of proportionate shares of the performance or costs of ~~of liability for the performance or cost of~~ a response resulting from the release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site."

Section 741.105 was amended to read:

- a) This Part applies to proceedings before the Board in which:
- 1) Any person seeks, under the Environmental Protection Act [415 ILCS 5] or the Groundwater Protection Act [415 ILCS 55], to require another person to perform, or to recover the costs of, a response that results from a release or substantial threat of a release of

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regulated substances or pesticides on, in, under or from a site; or

- 2) Two or more persons seek to allocate among themselves 100 percent of the performance or costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site.

b) The Board's procedural rules at 35 Ill. Adm. Code 101 and 103 apply to all proceedings under this Part. However, in the event of a conflict between the rules of 35 Ill. Adm. Code 101 and 103 and this Part, this Part applies.

c) Subpart A of this Part also applies to all proceedings under this Part. However, in the event of a conflict between the rules of Subpart A and subsequent Subparts of this Part, the subsequent Subpart applies.

d) Subpart B of this Part applies when a complaint is filed with the Board that seeks, under the Environmental Protection Act or the Groundwater Protection Act:

- 1) To require any person to perform a response that results from a release or substantial threat of a release of regulated substances or pesticides; or
- 2) To recover the costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides.

e) Subpart C of this Part applies when a petition is filed with the Board under Section 741.305 of this Part to allocate among the participants 100 percent of the performance or costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides. No person may file a petition under Subpart C of this Part when a complaint has been filed in any forum that addresses the same release or substantial threat of a release.

f) This Part does not apply to:

- 1) Any cost recovery action brought by the State under Section 22.2 of the Act to recover costs incurred by the State prior to July 1, 1996 (Section 58.9(f) of the Act);
- 2) Sites on the National Priorities List (Appendix B of 40 CFR 300);
- 3) Sites where a federal court order or a United States Environmental Protection Agency order requires an investigation or response;
- 4) The owner or operator of a treatment, storage or disposal site:
 - A) For which a current permit has been issued or is required under federal or State solid or hazardous waste laws; or
 - B) That is subject to closure or corrective action requirements under federal or State solid or hazardous waste laws;
- 5) The owner or operator of an underground storage tank system subject to federal or State underground storage tank laws.
- g) This Part applies to any person or site described in subsections (f)(2) through (f)(5) of this Section to the extent allowed by federal law, federal authorization or other federal approval.

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In Section 741.110, the following definitions were added:

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. (Section 3.71 of the Act)

"Proportionate Share" means a person's share of the performance or costs of a response based on the degree to which the performance or costs result from the person's proximate causation of or contribution to the release or substantial threat of a release.

In Section 741.110, the following changes were made to the definition of "Remedial Action":

"Remedial Action" means those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a regulated substance or pesticides into the environment, to prevent or minimize the release of regulated substances or pesticides so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released regulated substances or pesticides or contaminated materials, recycling or reuse, diversion destruction, segregation of reactive substances, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the Governor and Director determine that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of regulated substances or pesticides, or may otherwise be necessary to protect the public health or welfare. The term includes offsite transport of regulated substances or pesticides, or the storage, treatment, destruction, or secure disposition offsite of such regulated substances or pesticides or contaminated materials. Remedial action also includes activities associated with compliance with the provisions of Sections 58.6 and 58.7 of the Act, including, but not limited to, the conduct of site investigations, preparations of work plans and reports, removal or treatment of contaminants, construction and maintenance of engineered barriers, and/or implementation of institutional controls. (Sections 3.34 and 58.2 of the Act)

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In Section 741.110, the following changes were made to the definition of "Remove" or "Removal":

"Remove" or "Removal" means the cleanup or removal of released regulated substances or pesticides from the environment, actions as may be necessary to take taken in the event of the threat of release of regulated substances or pesticides into the environment, actions as may be necessary to monitor, assess, and evaluate the release or threat of release of regulated substances or pesticides, the disposal of removed material, or the taking of other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare of the environment, that may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals, and any emergency assistance that may be provided under the Illinois Emergency Management Act or any other law. (Section 3.35 of the Act)

In Section 741.115, the following changes were made:

- a) Any person who wishes to engage in discovery before filing an action seeking an allocation of proportionate shares of liability and for the sole purpose of ascertaining the identity of a person who may be liable at least in part for a release or substantial threat of a release of regulated substances may file a petition with the Board for discovery for the sole purpose of identifying persons who may have proximately caused or contributed to a release or substantial threat of release of regulated substances or pesticides for such discovery with the Board.
- b) The petition, which must be supported by affidavits, must be brought in the name of the petitioner and must name as respondents the person or persons from whom discovery is sought. A brief or memorandum and other supporting documents may be filed with the petition. The petition must include:
 - 1) The name and address of the respondent(s);
 - 2) The reason the proposed discovery is necessary, including why the petitioner could not obtain the information sought by any other reasonable means;
 - 3) A copy of the proposed discovery request(s); the nature of the discovery sought;
 - 4) A statement supported by affidavits of the petitioner's basis for belief that there is a release or substantial threat of a release and that the respondent has or may have the information sought;
 - 5) The petitioner's proposed time for compliance with the order (not less than 30 days from the date of issuance of the order); and
 - 6) A request that the Board enter an order authorizing petitioner to

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obtain such discovery, and
 7) A notice informing the respondent of the opportunity to respond to the petition within 30 days.

e) ~~A brief or memorandum and other supporting documents may be filed with the petition.~~

d) ~~The petition must be accompanied by an affidavit attesting that the petitioner could not obtain the information sought by any other reasonable means.~~

ce) ~~The petitioner must serve a notice of filing and a copy of the petition and any supporting documents upon the persons to whom the order is to be directed who must be designated the respondents. The notice of filing must inform the respondent of the filing of the accompanying petition and of the respondent's opportunity to respond to the petition within 14 days after the date of service.~~

df) ~~Within 30 1/4 days from the date of service of the petition, the respondent may file a response to the petition supported by affidavit as necessary. The respondent may file a brief or memorandum and other supporting documents with the response. If no response is filed, the respondent is deemed to have waived objection to the discovery sought.~~

eg) ~~The petitioner may reply to the response within 7 days after the date of service of the response.~~

fh) ~~Petitioner must serve and file the petition service and filing must be in accordance with 35 Ill. Adm. Code 101. Subpart C, except that petitioner must initially serve of the petition must be made personally, by registered or certified mail, or by messenger service.~~

gi) ~~The Board will review the petition, response, affidavit, and any other supporting documents on file and grant or deny the petition if the Board finds that the requested discovery, or a portion of the requested discovery that the Board specifies, is necessary to identify persons who may have proximately caused or contributed to a release or a substantial threat of a release of regulated substances or pesticides and that the information could not be obtained by any other reasonable means. The order granting the petition will require the respondent to respond to authorized discovery and will limit discovery to the identification of potentially liable persons. Where a deposition is authorized the order will specify the time and place of the deposition and the name and address of each person to be examined, if known, or, if unknown, information sufficient to identify each person. The order will specify a reasonable time for compliance and the method of compliance.~~

hj) ~~Unless extended for cause shown, the Board's order automatically expires 60 days after issuance. If any respondent fails to comply with a discovery request authorized under this Section, the petitioner may seek penalties under Section 42 of the Act.~~

i) ~~The petitioner must bear the respondent's reasonable expenses of providing the discovery (excluding attorney fees).~~

jk) ~~Nothing in this Section limits the ability of any person to obtain~~

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information in any other lawful manner.

k) ~~No petition under this Section may be brought:~~

1) ~~Against agencies subject to the Freedom of Information Act [5 ILCS 140]; or~~

2) ~~For information privileged under 35 Ill. Adm. Code 101 and 103.~~

In Section 741.120, the following changes were made:

Section 741.120 Resolution of Issues in Section 58.9(b) Notice

a) ~~In the event the State of Illinois seeks to require a person who may be liable pursuant to the Act to conduct a response for a release or threatened release of a regulated substance, the Agency shall provide notice to such person. (Section 58.9(b) of the Act) Such notice shall include the necessity to conduct a response pursuant to Title XVII of the Act and an opportunity for the person to perform the response. (Section 58.9(b) of the Act) This notice may be combined with a notice under Section 4(q) of the Act.~~

b) ~~The notice under subsection (a) of this Section must include:~~

1) ~~Identification of a basis for liability;~~

2) ~~Identification of the response to be performed; and~~

c) ~~At the time of notification pursuant to Section 58.9(b) of the Act or at any time subsequent thereto, the Agency may offer the person to whom the notice is sent an opportunity to meet with the Agency to resolve outstanding issues and to determine the costs of conducting the response that are attributable to the release or substantial threat of a release that such person or any other person caused or to which that person or any other person contributed.~~

d) ~~The meeting described in subsection (c) of this Section must be held within 30 days after receipt of written notification of the opportunity unless the Agency agrees to a postponement.~~

e) ~~In determining the proportionate share of liability allocation, the allocation factors set forth in Section 741.140 of this Part may be considered.~~

Section 741.125 was amended to read: A person seeking allocation of proportionate shares must serve a copy of the complaint, or the petition under Subpart C of this Part, on the Agency within 30 days after the filing of the complaint or petition. Such person must serve the Agency pursuant to 35 Ill. Adm. Code 101.141. The Agency may file an application with the Board to intervene in the proceeding under 35 Ill. Adm. Code 103.142.

In Section 741.130, the following changes were made:

Section 741.130 ~~Mandatory Disclosures and Discovery After an Action is Filed~~

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- a) Within time limits set by the Hearing Officer, each party to a proceeding in which allocation of proportionate shares is sought must compile any and all documents within its possession or control pertaining to the release or threatened release and the party's proportionate share and shall make the records available for review and copying by the parties. Documents protected from disclosure under 35 Ill. Adm. Code 101 and 103 are not subject to this Section.
- b) Discovery is governed by 35 Ill. Adm. Code 101 and 103, and all discovery devices identified in 35 Ill. Adm. Code 101 and 103 are available to all parties in a proceeding to allocate proportionate shares of liability. Sanctions for failure to comply with procedural rules, subpoenas, or order of the Board or Hearing Officer will be as set forth therein and as otherwise available under the Act.
- c) Discovery pursuant to this Section is not applicable to mediation proceedings under this Part.

Section 741.135 "Conduct of Hearings" was deleted and the remaining sections of Subpart A were renumbered.

In Section 741.135, the following changes were made:

Section 741.135 Allocation Factors

In determining allocations proportionate shares under this Part, the Board will consider any or all factors related to the cause of, or contribution to, a release or substantial threat of a release of regulated substances on, in or under the site, related to the degree to which the performance or costs of a response result from a person's proximate causation of or contribution to the release or substantial threat of a release. These factors include the following including but not limited to:

- The volume of regulated substances or pesticides for which each liable person is responsible;
- Consistent with the provisions of 35 Ill. Adm. Code 742 and the remediation of the site in a manner consistent with its current and reasonably foreseeable future use, the degree of risk or hazard posed by the regulated substances or pesticides contributed by each liable person;
- The degree of each liable person's involvement in any activity that proximately caused or contributed to the release or substantial threat of a release of regulated substances or pesticides at the site; and
- Any other factors relevant to a liable person's proportionate share of liability.

In Section 741.140, the following changes were made:

Section 741.140 Relief from Final Orders

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- a) On written motion by any party person participating in an allocation proceeding, the Board, for any of the reasons set forth in 35 Ill. Adm. Code 101.301(b), may provide relief from a final order in which the Board allocated proportionate shares. Entered in an allocation proceeding for any of the following reasons:
- Newly discovered evidence that existed at the time of hearing and that by due diligence could not have been timely discovered;
 - Fraud, whether intrinsic or extrinsic, misrepresentation, or other misconduct of a party; or
 - Void order, such as an order based on jurisdictional defects.
- Relief under subsection (a) of this Section may include reallocation of proportionate shares.
- c) The Board may decline to reopen an allocation determination if the motion and any supporting materials do not demonstrate that the reopening would result in significant changes in proportionate shares of liability.
- d) A motion under subsection (a) of this Section does not affect the finality of a Board order or suspend the operation of a Board order. The motion must be filed in the same proceeding in which the order was entered but is not a continuation of that proceeding. The motion must be supported by affidavit or other appropriate showing as to matters not of record. The movant shall notify all parties or participants in the proceeding as provided by 35 Ill. Adm. Code 101.141(f).
- e) A motion under subsection (a) must be filed with the Board within one year after entry of the order, except that when the response begins during where remediation of a site has begun before expiration of this one-year period, a motion under subsection (a) of this Section must be filed with the Board within three years after entry of the order. Upon written motion, the Board may extend either of these periods for cause shown.
- ef) Any response to a motion under this Section must be filed within 30 days after the filing of the motion.

In Subpart B, the heading was changed to read: ALLOCATION OF PROPORTIONATE SHARES WHEN A COMPLAINT HAS BEEN FILED.

Section 741.200 was amended to read: This Subpart sets forth the procedures that apply when a complaint is filed with the Board that seeks, under the Act or the Groundwater Protection Act [415 ILCS 55], to require any person to perform a response that results from a release or substantial threat of a release of regulated substances or pesticides, or to recover the costs of a response. This Subpart also sets forth the burden and standard of proof for such actions.

Section 741.205 was amended to read:

Section 741.205 Burden and Standard of Proof

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a) To establish a respondent's proportionate share, the complainant must prove the following by a preponderance of the evidence:

- 1) That the respondent proximately caused or contributed to a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site; and
- 2) The degree to which the performance or costs of a response result from the respondent's proximate causation of or contribution to the release or substantial threat of a release as established under subsection (a)(1) of this Section.

b) Liability to perform or pay for a response that results from the release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site is subject to all defenses allowed by law, including the defenses set forth in Section 22.2(j) of the Act, and the limitations set forth in Section 58.9(a)(2) of the Act. The respondent raising a defense set forth in Section 22.2(j) or a limitation set forth in Section 58.9(a)(2) of the Act must prove the defense or limitation by a preponderance of the evidence.

c) A complainant is not required to plead a specific alleged percentage of liability for the performance or costs of a response in a complaint that seeks to require a respondent to perform or pay for a response that results from a release or substantial threat of a release of regulated substances or pesticides.

Section 741.210 was amended to read:

Section 741.210 Final Orders

a) Based on the evidence presented at hearing or in a stipulation, the Board will enter a final order that determines whether a respondent proximately caused or contributed to a release or substantial threat of a release.

b) If the Board determines, under subsection (a) of this Section, that a respondent proximately caused or contributed to a release or substantial threat of a release, the Board will, in its final order, order the respondent to perform or pay for a response. The Board will order the respondent to perform or pay for a response only to the degree to which a preponderance of the evidence shows that the performance or costs of the response result from the respondent's proximate causation of or contribution to the release or substantial threat of a release. In making this decision, the Board will consider the allocation factors of Section 741.135 of this Part.

c) If any party fails to comply with the Board's order under this Section, any party may seek penalties under Section 42 of the Act. The Board may order a party that fails to comply with the Board's order under this Section to pay penalties under Section 42 of the Act.

Sections 741.215 through 741.235 were deleted.

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In Section 741.300, the following changes were made: This Subpart sets forth the procedures that may apply when two or more persons seek to allocate among themselves 100 percent of the performance or costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site. ~~circumstances--under--which--an--allocation-proceeding-may-be-initiated-by participants-who-agree-to-allocate-the-entire-costs-of--a--response--among themselves--and--when--no--complaint--has-been-filed-with-the-Board.~~ This Subpart also includes provides procedures for mediation and settlements and the requirements and standards that the Board will use to issue final orders ~~to-be-used-by-the-Board--in--issuing--final--orders--allocating proportionate-shares-of-liability.~~

In Section 741.305, the following changes were made:

a) Participants that agree to accept 100 percent of liability to perform or pay for a response that results from a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site, whether or not they stipulate to specific shares of such liability, agreeing-to-accept-100-percent-of-liability-for-a release-and-stipulating-to-specific-shares-of-liability may initiate a voluntary allocation proceeding by filing a petition with the Board if:-

b) Participants-agreeing-to-accept-100-percent-of-liability-for-a-release but-not-stipulating-to-specific-shares-of-liability--or-stipulating-to less--than--all-shares--may-initiate-a-voluntary-allocation-proceeding by-filing-a-petition-with-the-Board-if:

- 1) There is an Agency-approved Remedial Action Plan for the site under 35 Ill. Adm. Code 740; or
- 2) There is a written agreement with the Agency regarding with-regard to the performance of a response ~~remedial--action~~ at the site following the issuance of a notice under Section 4(q) or Section 58.9(b) of the Act.

bc) The petition under subsections (a) and (b) of this Section ~~must~~ shall include the following information ~~at-a-minimum:~~

- 1) The location and identity of the site for which an allocation of proportionate shares ~~of-liability~~ is requested;
- 2) The identity of all participants;
- 3) The stipulated shares of specific participants agreehave-agreed to allocate among themselves 100 percent of the performance or costs of the response the-entire-cost-of-the-response-as-provided--in ~~the~~ Remedial Action Plan or written agreement with the Agency; and
- 5) A statement that the participants choose to engage in either mediation under Sections 741.320 andthrough 741.325 ~~of this Subpart~~ or to proceed with the Board's allocation proceedings under Sections 741.310 andthrough 741.315 of this Subpart.

cd) Upon determination that the petition contains the required

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information, the Board will ~~shall~~ issue an order accepting the petition and assigning a ~~Hearing Officer~~ as necessary.

d) The nature of any response agreed to as part of a Remedial Action Plan or written agreement with the Agency cannot be contested during the allocation proceeding.

ef) No person may file a petition under Subpart C of this Part when a complaint has been filed in any forum that addresses the same release or substantial threat of a release. If ~~a proceeding is initiated by the Agency, the State, or any person under Subpart B of this Part files a complaint in any forum against participants to a proceeding under this Subpart-E that involving the same release or substantial threat of a release, the Board may, upon motion by any participants or at its discretion, stay the Subpart-E proceedings under this Subpart pending the outcome of the other Subpart-B proceeding. The State, the Agency or any party to the other proceeding also may appear specially to move the Board to stay the proceedings under this Subpart.~~

In Section 741.310, the following changes were made:

a) Within 60 days following the close of discovery, the participants ~~must~~ shall submit a joint proposal to the Board that must include either or both of the following, as applicable:

- 1) For any or all of the participants, ~~An agreed allocation of proportionate the shares of responsibility for any or all of the participants;~~
 - 2) A request ~~proposal~~ for hearing on all allocations of proportionate shares for which the participants have not ~~agreed reached an agreed allocation.~~
- b) If agreed allocations are reached for all participants, the allocated shares must total 100 percent of the performance or costs of the response ~~to be implemented~~ under the Remedial Action Plan or written agreement with the Agency.
- c) If a hearing is requested as part of the joint proposal, under subsection (a) of this Section, the ~~Hearing Officer~~ will issue an order ~~for the scheduling~~ to schedule and conduct of the hearing and address any other matters ~~deemed~~ necessary. The order must ~~require include a requirement that, at least 30 days before prior to the date of hearing, each the participants shall submit a pre-hearing memorandum setting forth the proportionate share that it accepts for which they accept responsibility and the issues to be resolved at the hearing.~~

In Section 741.315, the following changes were made: Nothing in this Subpart ~~shall~~ prohibits the participants from at any time entering into a settlement for Board review if the settlement allocates among the settling participants ~~reaching agreed allocations among themselves at any time if the agreed allocations result in 100 percent of the performance or allocation of the costs of the response to be implemented under the~~

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Remedial Action Plan or written agreement with the Agency ~~including any agreed allocations arising out of Section 741.310(a)(1) of this Part. Joint proposals shall be submitted to the Board for review under Section 741.315 of this Part.~~

Section 741.320 was amended to read:

Section 741.320 Mediation

- a) If the participants wish to engage in mediation, the participants may file a joint notice of that intent with the Board designating a mediator whom the participants have mutually selected.
- b) While mediation is proceeding, the time period for the allocation proposal and hearing request under Section 741.310 of this Subpart and all discovery proceedings under this Part and 35 Ill. Adm. Code 101 and 103 are suspended.
- c) Mediation must be completed within 120 days after the participants have filed notice of their intent to mediate with the Board. Upon written motion, the Board may extend this period for cause shown.

Section 741.325 was deleted, and the remaining sections in Subpart C were renumbered.

In Section 741.325, the following changes were made:

Section 741.32590 Settlement Through Mediation

- a) If the participants reach an agreement ~~is reached~~ through mediation, it must be reduced to writing and signed by the participants and their counsel, if any. Within 14 days after execution of the agreement, the participants ~~must~~ shall file a joint motion to dismiss the Board action or a motion to accept the stipulated settlement agreement.
- b) If the participants do not reach an agreement, the participants ~~must~~ shall report the lack of an agreement to the Board and file either:
 - 1) A joint motion to dismiss the Board action; or
 - 2) A joint motion to initiate or resume the Board allocation proceeding under Sections 741.310 and ~~through~~ 741.315 of this Subpart.
- c) At any time, the participants may jointly file a motion to cease the mediation and begin or resume the Board's allocation proceedings under Sections 741.310 and ~~through~~ 741.315 of this Subpart.

In Section 741.330, the following changes were made:

Section 741.33095 Board Review and Final Orders

- a) Based on the evidence presented at hearing or in a stipulation, the

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Board will enter a final order allocating a proportionate shares-of-liability-for-the-payment-of-costs-or-performance-of-a-response-for to each participant.

- b) The Board's final order will allocate 100 percent of the performance or costs of the response action to be implemented under the Remedial Action Plan or written agreement with the Agency. If the total of the agreed allocations under Section 741.310(a)(1) of this Subpart and the proportionate shares allocation-of-shares-of-responsibility demonstrated during the hearing process-by-the-remaining-participants do not equal 100 percent of the performance or costs of the response, action-to-be-implemented-under-the-Remedial-Action-Plan-or-written agreement-with-the-Agency, the Board's order will allocate must apportion the remaining liability for performance or costs among all of the p-articipants in the same ratio as the shares that have been agreed upon or demonstrated for-each-participant during the hearing.

- c) The Board's final order will include an order to perform or pay for the response based on the proportionate shares determined during the proceeding.

- d) The Board may impose Penalties may-be-imposed under Section 42 of the Act if a participant fails to comply with a Board order under this Section.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will these rules replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: For a detailed discussion of the rulemaking, please refer to the Illinois Pollution Control Board's opinion and order at first notice (September 3, 1998), its opinion and order at second notice (December 3, 1998), and its final opinion and order (December 17, 1998). Copies of these opinions and orders may be obtained as described below.

On December 21, 1995, Governor Jim Edgar signed into law House Bill 901 as Public Act 89-443, effective July 1, 1996. This amendatory legislation added a new liability section to Title XVII of the Environmental Protection Act. This new liability section, Section 58.9, repealed joint and several liability in environmental remediations and replaced it with proportionate share liability. The purpose of this rulemaking was to establish rules and procedures for determining proportionate share.

The rules apply to two types of proceedings. First, the rules apply to enforcement actions in which the State or a private party files a complaint with the Board that seeks to require another person to perform, or seeks to recover the costs of, a response. Second, the rules apply to

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proceedings in which two or more persons voluntarily seek to allocate 100% of the performance or cost of a response between themselves. In either type of proceeding, however, Part 741 does not apply to (a) actions to recover costs incurred by the State prior to July 1, 1996; (b) sites on the National Priorities List; (c) sites where a federal court order or a USFSA order requires an investigation or response; (d) the owner or operator of a site for which a permit has been issued or is required under federal or State solid or hazardous waste laws, or that is subject to closure or corrective action requirements under federal or State solid or hazardous waste laws; or (e) the owner or operator of an underground storage tank system subject to federal or State underground storage tank laws.

The rules provide that in the first type of proceeding the complainant must prove that the respondent proximately caused or contributed to a release. The complainant must also provide evidence of the degree to which the response was the result of the respondent's proximate causation of or contribution to a release of a regulated substance or pesticide. At the conclusion of the action, the Board will enter a final order determining whether the respondent proximately caused or contributed to a release. If so, the Board will also determine the respondent's share of the response and order the respondent to perform or pay for its proportionate share of the response.

The second type of proceeding is available only if there is an Agency-approved Remedial Action Plan for the site or if there is a written agreement with the Agency regarding the performance of a response at the site following the issuance of a notice under Section 4(q) or Section 58.9(b) of the Act. At any time, participants may suspend a Subpart C proceeding for up to 120 days to engage in mediation. If the participants reach an agreement on allocation of proportionate shares, the participants can either file a motion to dismiss the allocation proceeding before the Board or file a stipulated settlement agreement with the Board. Absent an agreement, the Board will allocate liability among the participants based on the evidence presented at a hearing and enter an order directing the participants to perform the response or pay costs.

Parties may obtain relief from final orders allocating proportionate shares, including reallocation, based on newly discovered evidence that existed at the time of hearing and could not have been discovered by due diligence. (Relief may also be obtained for fraud or a void order.)

- 16) Information and questions regarding these adopted amendments shall be directed to:

Cynthia I. Ervin
Illinois Pollution Control Board
600 South Second Street

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Suite 402
Springfield, IL 62704
(217) 524-8509

Requests for copies of any of the Illinois Pollution Control Board's opinions and orders in R97-16 should be directed to Victoria Agyeman at (312) 814-3620 or at 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601 and should refer to docket R97-16.

The full text of the Adopted Rules begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD

PART 741
PROPORTIONATE SHARE LIABILITY

SUBPART A: GENERAL

Section
741.100 Purpose
741.105 Applicability
741.110 Definitions
741.115 Discovery Before an Action is Filed
741.120 Section 58.9(b) Notice
741.125 Notice to Agency
741.130 Discovery After an Action is Filed
741.135 Allocation Factors
741.140 Relief from Final Orders
741.145 Severability

SUBPART B: ALLOCATION OF PROPORTIONATE SHARES WHEN A COMPLAINT
HAS BEEN FILED

Section
741.200 General
741.205 Burden and Standard of Proof
741.210 Final Orders

SUBPART C: VOLUNTARY ALLOCATION PROCEEDINGS

Section
741.300 General
741.305 Initiation of Voluntary Allocation Proceeding
741.310 Allocation Proposals and Hearing Requests
741.315 Settlements
741.320 Mediation
741.325 Settlement Through Mediation
741.330 Board Review and Final Orders

AUTHORITY: Implementing Section 58.9 and authorized by Section 58.9(d) of the Environmental Protection Act [415 ILCS 5/58.9]

SOURCE: Adopted in R97-16 at 23 Ill. Reg. 515, effective
DEC 22 1998

SUBPART A: GENERAL

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Section 741.100 Purpose

The purpose of this Part is to establish procedures under which the Board will allocate proportionate shares of the performance or costs of a response resulting from the release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site.

Section 741.105 Applicability

- a) This Part applies to proceedings before the Board in which:
 - 1) Any person seeks, under the Environmental Protection Act [415 ILCS 5] or the Groundwater Protection Act [415 ILCS 55], to require another person to perform, or to recover the costs of, a response that results from a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site; or
 - 2) Two or more persons seek to allocate among themselves 100 percent of the performance or costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site.
- b) The Board's procedural rules at 35 Ill. Adm. Code 101 and 103 apply to all proceedings under this Part. However, in the event of a conflict between the rules of 35 Ill. Adm. Code 101 and 103 and this Part, this Part applies.
- c) Subpart A of this Part also applies to all proceedings under this Part. However, in the event of a conflict between the rules of Subpart A and subsequent Subparts of this Part, the subsequent Subpart applies.
- d) Subpart B of this Part applies when a complaint is filed with the Board that seeks, under the Environmental Protection Act or the Groundwater Protection Act:
 - 1) To require any person to perform a response that results from a release or substantial threat of a release of regulated substances or pesticides; or
 - 2) To recover the costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides.
- e) Subpart C of this Part applies when a petition is filed with the Board under Section 741.305 of this Part to allocate among the participants 100 percent of the performance or costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides. No person may file a petition under Subpart C of this Part when a complaint has been filed in any forum that addresses the same release or substantial threat of a release.
- f) This Part does not apply to:
 - 1) Any cost recovery action brought by the State under Section 22.2 of the Act to recover costs incurred by the State prior to July 1, 1996 (Section 58.9(f) of the Act);

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- 2) Sites on the National Priorities List (Appendix B of 40 CFR 300);
- 3) Sites where a federal court order or a United States Environmental Protection Agency order requires an investigation or response;
- 4) The owner or operator of a treatment, storage or disposal site:
 - A) For which a current permit has been issued or is required under federal or State solid or hazardous waste laws; or
 - B) That is subject to closure or corrective action requirements under federal or State solid or hazardous waste laws;
- 5) The owner or operator of an underground storage tank system subject to federal or State underground storage tank laws.
- g) This Part applies to any person or site described in subsections (f)(2) through (f)(5) of this Section to the extent allowed by federal law, federal authorization or other federal approval.

Section 741.110 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part is the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5].

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Pollution Control Board.

"Person" means individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or any interstate body including the United States government and each department, agency, and instrumentality of the United States. (Section 58.2 of the Act)

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. (Section 3.71 of the Act)

"Proportionate Share" means a person's share of the performance or costs of a response based on the degree to which the performance or costs result from the person's proximate causation of or contribution to the release or substantial threat of a release.

"Regulated Substance" means any hazardous substance as defined under Section 101(14) of the Comprehensive Environmental Response,

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Compensation, and Liability Act of 1980 (P.L. 96-510) and petroleum products including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). (Section 58.2 of the Act)

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons; emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of such Act; and the normal application of fertilizer. (Section 3.33 of the Act)

"Remedial Action" means those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a regulated substance or pesticides into the environment, to prevent or minimize the release of regulated substances or pesticides so that they do not migrate to cause substantial danger to present or future public health or welfare or actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released regulated substances or pesticides or contaminated materials, recycling or reuse, diversion destruction, segregation of reactive substances, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the Governor and Director determine that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of regulated substances or pesticides, or may otherwise be necessary to protect the public health or welfare. The term includes offsite transport of regulated substances or pesticides, or the storage, treatment, destruction, or secure disposition offsite of such regulated substances or pesticides or contaminated materials. Remedial action also includes activities associated with compliance with the provisions of Sections 58.6 and 58.7 of the Act, including,

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but not limited to, the conduct of site investigations, preparations of work plans and reports, removal or treatment of contaminants, construction and maintenance of engineered barriers, and/or implementation of institutional controls. (Sections 3.34 and 58.2 of the Act)

"Remove" or "Removal" means the cleanup or removal of released regulated substances or pesticides from the environment, actions as may be necessary to take in the event of the threat of release of regulated substances or pesticides into the environment, actions as may be necessary to monitor, assess, and evaluate the release or threat of release of regulated substances or pesticides, the disposal of removed material, or the taking of other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare of the environment, that may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals, and any emergency assistance that may be provided under the Illinois Emergency Management Act or any other law. (Section 3.35 of the Act)

"Respond" or "Response" means remove, removal, remedy, and remedial action. (Section 3.40 of the Act)

"Site" means any single location, place, tract of land or parcel of property or portion thereof, including contiguous property separated by a public right-of-way. (Section 58.2 of the Act) This term also includes, but is not limited to, all buildings and improvements present at that location, place or tract of land.

Section 741.115 Discovery Before an Action is Filed

- a) Any person who wishes to engage in discovery before filing an action seeking proportionate shares may file a petition with the Board for discovery for the sole purpose of identifying persons who may have proximately caused or contributed to a release or substantial threat of a release of regulated substances or pesticides.
- b) The petition, which must be supported by affidavits, must be brought in the name of the petitioner and must name as respondents the person or persons from whom discovery is sought. A brief or memorandum and other supporting documents may be filed with the petition. The petition must include:
 - 1) The name and address of the respondents;
 - 2) The reason the proposed discovery is necessary, including why the petitioner could not obtain the information sought by any other reasonable means;
 - 3) A copy of the proposed discovery requests;

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- 4) A statement of the petitioner's basis for belief that there is a release or substantial threat of a release and that the respondent has or may have the information sought;
- 5) The petitioner's proposed time for compliance with the order (not less than 30 days from the date of issuance of the order);
- 6) A request that the Board enter an order authorizing petitioner to obtain such discovery; and
- 7) A notice informing the respondent of the opportunity to respond to the petition within 30 days.
- c) The petitioner must serve a notice of filing and a copy of the petition and any supporting documents upon the persons to whom the order is to be directed who must be designated the respondents.
- d) Within 30 days from the date of service of the petition, the respondent may file a response to the petition supported by affidavits as necessary. The respondent may file a brief or memorandum and other supporting documents with the response. If no response is filed, the respondent is deemed to have waived objection to the discovery sought.
- e) The petitioner may reply to the response within 7 days after the date of service of the response.
- f) Petitioner must serve and file the petition in accordance with 35 Ill. Adm. Code 101. Subpart C, except that petitioner must initially serve the petition personally, by registered or certified mail, or by messenger service.
- g) The Board will review the petition, response, affidavits, and any other supporting documents on file and grant the petition if the Board finds that the requested discovery, or a portion of the requested discovery that the Board specifies, is necessary to identify persons who may have proximately caused or contributed to a release or a substantial threat of a release of regulated substances or pesticides and that the information could not be obtained by any other reasonable means. The order will specify a reasonable time for compliance and the method of compliance.
- h) Unless extended for cause shown, the Board's order automatically expires 60 days after issuance. If any respondent fails to comply with a discovery request authorized under this Section, the petitioner may seek penalties under Section 42 of the Act.
- i) The petitioner must bear the respondent's reasonable expenses of providing the discovery (excluding attorney fees).
- j) Nothing in this Section limits the ability of any person to obtain information in any other lawful manner.
- k) No petition under this Section may be brought:
 - 1) Against agencies subject to the Freedom of Information Act [5 ILCS 140]; or
 - 2) For information privileged under 35 Ill. Adm. Code 101 and 103.

Section 741.120 Section 58.9(b) Notice

In the event the State of Illinois seeks to require a person who may be liable

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pursuant to the Act to conduct a response for a release or threatened release of a regulated substance, the Agency shall provide notice to such person. Such notice shall include the necessity to conduct a response pursuant to Title XVII of the Act and an opportunity for the person to perform the response. (Section 58.9(b) of the Act)

Section 741.125 Notice to Agency

A person seeking allocation of proportionate shares must serve a copy of the complaint, or the petition under Subpart C of this Part, on the Agency within 30 days after the filing of the complaint or petition. Such person must serve the Agency pursuant to 35 Ill. Adm. Code 101.141. The Agency may file an application with the Board to intervene in the proceeding under 35 Ill. Adm. Code 103.142.

Section 741.130 Discovery After an Action is Filed

- a) Within time limits set by the hearing officer, each party to a proceeding in which allocation of proportionate shares is sought must compile any and all documents within its possession or control pertaining to the release or threatened release and the party's proportionate share and shall make the records available for review and copying by the parties. Documents protected from disclosure under 35 Ill. Adm. Code 101 and 103 are not subject to this Section.
- b) Discovery is governed by 35 Ill. Adm. Code 101 and 103, and all discovery devices identified in 35 Ill. Adm. Code 101 and 103 are available to all parties in a proceeding to allocate proportionate shares. Sanctions for failure to comply with procedural rules, subpoenas, or order of the Board or hearing officer will be as set forth therein and as otherwise available under the Act.

Section 741.135 Allocation Factors

In determining proportionate shares under this Part, the Board will consider any or all factors related to the degree to which the performance or costs of a response result from a person's proximate causation of or contribution to the release or substantial threat of a release. These factors include the following:

- a) The volume of regulated substances or pesticides for which each person is responsible;
- b) Consistent with the provisions of 35 Ill. Adm. Code 742 and the remediation of the site in a manner consistent with its current and reasonably foreseeable future use, the degree of risk or hazard posed by the regulated substances or pesticides contributed by each person;
- c) The degree of each person's involvement in any activity that proximately caused or contributed to the release or substantial threat of a release of regulated substances or pesticides; and
- d) Any other factors relevant to a person's proportionate share.

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Section 741.140 Relief from Final Orders

- a) On written motion by any party, the Board, for any of the reasons set forth in 35 Ill. Adm. Code 101.301(b), may provide relief from a final order in which the Board allocated proportionate shares.
- b) Relief under subsection (a) of this Section may include reallocation of proportionate shares.
- c) The Board may decline to reopen an allocation determination if the motion and any supporting materials do not demonstrate that the reopening would result in significant changes in proportionate shares.
- d) A motion under subsection (a) of this Section must be filed with the Board within one year after entry of the order, except that when the response begins during this one-year period, a motion under subsection (a) of this Section must be filed with the Board within three years after entry of the order. Upon written motion, the Board may extend either of these periods for cause shown.
- e) Any response to a motion under this Section must be filed within 30 days after the filing of the motion.

Section 741.145 Severability

If any Section, subsection, sentence or clause of this Part is judged invalid, such adjudication does not affect the validity of this Part as a whole or any Section, subsection, sentence or clause thereof not judged invalid.

SUBPART B: ALLOCATION OF PROPORTIONATE SHARES WHEN A COMPLAINT
HAS BEEN FILED

Section 741.200 General

This Subpart sets forth the procedures that apply when a complaint is filed with the Board that seeks, under the Act or the Groundwater Protection Act [415 ILCS 55], to require any person to perform a response that results from a release or substantial threat of a release of regulated substances or pesticides, or to recover the costs of a response. This Subpart also sets forth the burden and standard of proof for such actions.

Section 741.205 Burden and Standard of Proof

- a) To establish a respondent's proportionate share, the complainant must prove the following by a preponderance of the evidence:
 - 1) That the respondent proximately caused or contributed to a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site; and
 - 2) The degree to which the performance or costs of a response result from the respondent's proximate causation of or contribution to the release or substantial threat of a release as established under subsection (a)(1) of this Section.

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- b) Liability to perform or pay for a response that results from the release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site is subject to all defenses allowed by law, including the defenses set forth in Section 22.2(j) of the Act, and the limitations set forth in Section 58.9(a)(2) of the Act. The respondent raising a defense set forth in Section 22.2(j) or a limitation set forth in Section 58.9(a)(2) of the Act must prove the defense or limitation by a preponderance of the evidence.
- c) A complainant is not required to plead a specific alleged percentage of liability for the performance or costs of a response in a complaint that seeks to require a respondent to perform or pay for a response that results from a release or substantial threat of a release of regulated substances or pesticides.

Section 741.210 Final Orders

- a) Based on the evidence presented at hearing or in a stipulation, the Board will enter a final order that determines whether a respondent proximately caused or contributed to a release or substantial threat of a release.
- b) If the Board determines, under subsection (a) of this Section, that a respondent proximately caused or contributed to a release or substantial threat of a release, the Board will, in its final order, order the respondent to perform or pay for a response. The Board will order the respondent to perform or pay for a response only to the degree to which a preponderance of the evidence shows that the performance or costs of the response result from the respondent's proximate causation of or contribution to the release or substantial threat of a release. In making this decision, the Board will consider the allocation factors of Section 741.135 of this Part.
- c) If any party fails to comply with the Board's order under this Section, any party may seek penalties under Section 42 of the Act. The Board may order a party that fails to comply with the Board's order under this Section to pay penalties under Section 42 of the Act.

SUBPART C: VOLUNTARY ALLOCATION PROCEEDINGS

Section 741.300 General

This Subpart sets forth the procedures that may apply when two or more persons seek to allocate among themselves 100 percent of the performance or costs of a response that results from a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site. This Subpart also includes procedures for mediation and settlements and the requirements and standards that the Board will use to issue final orders.

Section 741.305 Initiation of Voluntary Allocation Proceeding

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- 2) A request for hearing on all allocations of proportionate shares for which the participants have not agreed.
- b) If agreed allocations are reached for all participants, the allocated shares must total 100 percent of the performance or costs of the response under the Remedial Action Plan or written agreement with the Agency.
- c) If a hearing is requested as part of the joint proposal, under subsection (a) of this Section, the hearing officer will issue an order to schedule and conduct the hearing and address any other matters as necessary. The order must require that, at least 30 days before the date of hearing, each participant submit a pre-hearing memorandum setting forth the proportionate share that it accepts and the issues to be resolved at the hearing.

Section 741.315 Settlements

Nothing in this Subpart prohibits the participants from at any time entering into a settlement for Board review if the settlement allocates among the settling participants 100 percent of the performance or costs of the response under the Remedial Action Plan or written agreement with the Agency.

Section 741.320 Mediation

- a) If the participants wish to engage in mediation, the participants may file a joint notice of that intent with the Board designating a mediator whom the participants have mutually selected.
- b) While mediation is proceeding, the time period for the allocation proposal and hearing request under Section 741.310 of this Subpart and all discovery proceedings under this Part and 35 Ill. Adm. Code 101 and 103 are suspended.
- c) Mediation must be completed within 120 days after the participants have filed notice of their intent to mediate with the Board. Upon written motion, the Board may extend this period for cause shown.

Section 741.325 Settlement Through Mediation

- a) If the participants reach an agreement through mediation, it must be reduced to writing and signed by the participants. Within 14 days after execution of the agreement, the participants must file a joint motion to dismiss the Board action or a motion to accept the stipulated settlement agreement.
- b) If the participants do not reach an agreement, the participants must report the lack of an agreement to the Board and file either:
 - 1) A joint motion to dismiss the Board action; or
 - 2) A joint motion to initiate or resume the Board allocation proceeding under Sections 741.310 and 741.315 of this Subpart.
- c) At any time, the participants may jointly file a motion to cease the mediation and begin or resume the Board's allocation proceedings under

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- a) Participants that agree to accept 100 percent of liability to perform or pay for a response that results from a release or substantial threat of a release of regulated substances or pesticides on, in, under or from a site, whether or not they stipulate to specific shares of such liability, may initiate a voluntary allocation proceeding by filing a petition with the Board if:
 - 1) There is an Agency-approved Remedial Action Plan for the site under 35 Ill. Adm. Code 740; or
 - 2) There is a written agreement with the Agency regarding the performance of a response at the site following the issuance of a notice under Section 4(g) or Section 58.9(b) of the Act.
- b) The petition under subsection (a) of this Section must include the following information:
 - 1) The location and identity of the site for which an allocation of proportionate shares is requested;
 - 2) The identity of all participants;
 - 3) The stipulated shares of specific participants, if any;
 - 4) Certification that the participants agree to allocate among themselves 100 percent of the performance or costs of the response under the Remedial Action Plan or written agreement with the Agency; and
 - 5) A statement that the participants choose to engage in either mediation under Sections 741.320 and 741.325 of this Subpart or to proceed with the Board's allocation proceedings under Sections 741.310 and 741.315 of this Subpart.
- c) Upon determination that the petition contains the required information, the Board will issue an order accepting the petition and assigning a hearing officer as necessary.
- d) The nature of any response agreed to as part of a Remedial Action Plan or written agreement with the Agency cannot be contested during the allocation proceeding.
- e) No person may file a petition under Subpart C of this Part when a complaint has been filed in any forum that addresses the same release or substantial threat of a release. If the Agency, the State, or any person files a complaint in any forum that involves the same release or substantial threat of a release, the Board may, upon motion by any participant or at its discretion, stay the proceedings under this Subpart pending the outcome of the other proceeding. The State, the Agency or any party to the other proceeding also may appear specially to move the Board to stay the proceedings under this Subpart.

Section 741.310 Allocation Proposals and Hearing Requests

- a) Within 60 days following the close of discovery, the participants must submit a joint proposal to the Board that must include either or both of the following, as applicable:
 - 1) For any or all of the participants, an agreed allocation of proportionate shares

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Sections 741.310 and 741.315 of this Subpart.

Section 741.330 Board Review and Final Orders

- a) Based on the evidence presented at hearing or in a stipulation, the Board will enter a final order allocating a proportionate share to each participant.
- b) The Board's final order will allocate 100 percent of the performance or costs of the response under the Remedial Action Plan or written agreement with the Agency. If the total of the agreed allocations under Section 741.310(a)(1) of this Subpart and the proportionate shares demonstrated during the hearing do not equal 100 percent of the performance or costs of the response, the Board's order will allocate the remaining liability for the performance or costs among all of the participants in the same ratio as the shares that have been agreed upon or demonstrated during the hearing.
- c) The Board's final order will include an order to perform or pay for the response based on the proportionate shares determined during the proceeding.
- d) The Board may impose penalties under Section 42 of the Act if a participant fails to comply with a Board order under this Section.

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1) Heading of the Part: Children's Health Insurance Program

2) Code Citation: 89 Ill. Adm. Code 125

3) Section Numbers:

Adopted Action:
 125.100 New Section
 125.110 New Section
 125.200 New Section
 125.205 New Section
 125.220 New Section
 125.230 New Section
 125.240 New Section
 125.245 New Section
 125.250 New Section
 125.260 New Section
 125.300 New Section
 125.305 New Section
 125.310 New Section
 125.320 New Section
 125.330 New Section
 125.340 New Section
 125.400 New Section
 125.420 New Section
 125.440 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: December 24, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of proposal published in Illinois Register: August 28, 1998 (22 Ill. Reg. 15511)

10) Has JCAR issued a statement of objections to these rules? No

11) Differences Between Proposal and Final Version:

The following changes have been made in the text of the proposed rulemaking.

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Subsection (c)(8) has been changed to read, "Failing to provide eligibility information that is truthful and accurate to the best of the applicant's knowledge and belief."

In subsection (e), "The" has been changed to "the".

Section 125.220

In subsection (a)(1), "Completing and" has been deleted and "submitting" has been changed to "Submitting".

In subsections (a)(2) and (a)(3), "in person" has been deleted.

Section 125.240

In subsection (f), "will be for" has been changed to "will be".

Section 125.245

Subsection (a)(2) has been changed as follows: "Or annual determination including denial" has been added after, "Denial of an application"; "one or more of" has been added after "failure to meet"; and "or annual determination" has been added after "would have commenced had the application".

In subsection (a)(3), "one or more of" has been added after "continue to meet".

In subsection (b), "actions which" has been changed to "actions that".

In subsection (c), "coverage" has been changed to "an application".

In subsection (d)(2), all of the language has been deleted and replaced by, "Calling a toll free telephone number as designated by the Department."

New subsection (j) has been added as follows, "An individual can, prior to a decision being rendered on the appeal, withdraw the appeal and reapply for the program."

Section 125.250

In subsection (b), "for the family" has been added after "in sufficient time" and "to the Department's request for information" has been added after "to respond".

Section 125.260

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Table of Contents

The title of Section 125.260 has been changed to: "Adding Children to and Removing Children from the Program".

The title of Section 125.400 has been changed to: "Minimum Coverage Requirements".

Authority Note

The Authority Note following the Section Index has been changed to read, "Implementing and authorized by the Children's Health Insurance Program Act [215 ILCS 106] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]."

Section 125.100

In the first sentence, "[215 ILCS 106] (see Public Act 90-736)" has been added after "Act" and "purchase" has been changed to "in purchasing".

Section 125.110

The definition of "Act" has been changed to: "means the Children's Health Insurance Program Act (Public Act 90-736)."

For the definition of "Caretaker Relative", in the second sentence, "Relative" has been changed to "relative".

In the definition of "Federal Poverty Level", "federal" has been added before "Department".

Section 125.200

In subsection (e)(6), ", or" has been changed to a period.

Section 125.205

In subsection (a)(4), the comma after "1996" has been changed to a semicolon.

In subsection (c)(1)(D), "subsections" has been changed to "subsection".

The end of subsection (c)(2) has been revised to read, "as specified in Sections 125.320 and 125.330."

In subsection (c)(5), "Caretaker Relative" has been changed to "caretaker relative".

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The Section title has been changed to: "Adding Children to and Removing Children from the Program".

Section 125.310

In subsection (a), "age appropriate" has been added before "immunizations".

Section 125.400

The Section title has been changed to: "Minimum Coverage Requirements".

Section 125.420

In subsection (c), "conduct random audits to" has been deleted.

Section 125.440

In subsection (c)(1), a comma has been added after "per month".

No other changes have been made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will these amendments replace emergency rules currently in effect? Yes

- 14) Are there any other amendments pending on this Part? No

- 15) Summary and Purpose of Rules:

The adoption of this rulemaking establishes the Children's Health Insurance Program as required by Public Act 90-736. The legislation authorizes the Department to administer an insurance program, to be known as KidCare, to assist families in obtaining coverage for medical services for their children. This children's health care initiative will provide medical benefits for children who are not eligible for coverage under Medicaid. The benefits are not an entitlement and will only be available to the extent that appropriations are available for such services.

KidCare will provide health care coverage for uninsured children by providing medical care benefits that are similar to benefits received under the Medicaid program, and for children with insurance coverage, by subsidizing the cost of privately sponsored health insurance, including employer-based health insurance. The KidCare provisions for children lacking insurance include nominal copayment requirements that are determined on the basis of family size and monthly countable income, monthly premiums according to specified income levels and an annual family cap on copayments. KidCare for children with insurance coverage provides

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for insurance rebates to be paid to the individual policyholder. Reimbursements to providers of services under KidCare will equal those paid for Medicaid services.

The Children's Health Insurance Program legislation is the result of the efforts of a task force comprised of members from the House and Senate, child health advocates, representatives of the Governor's Office, and representatives from the Departments of Public Aid, Public Health, Human Services and Insurance.

The benefits allowed under KidCare will be subject to review and adjustment as required by budgetary appropriations for medical services. Implementation of KidCare is expected to result in an annual expenditure of approximately \$84.1 million.

- 16) Information and questions regarding these adopted rules shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
Telephone: (217) 524-0081

The full text of the adopted rules begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 125

CHILDREN'S HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
125.100 General Description
125.110 Definitions

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section
125.200 Eligibility for Children's Health Insurance Program
125.205 Eligibility Exclusions and Terminations
125.220 Application Process
125.230 Determination of Monthly Countable Income
125.240 Eligibility Determination and Enrollment Process
125.245 Appeals
125.250 Annual Determinations
125.260 Adding Children to and Removing Children from the Program

SUBPART C: KIDCARE HEALTH PLAN

Section
125.300 Covered Services
125.305 Service Exclusions
125.310 Copayments
125.320 Premium Requirements
125.330 Non-payment of Premium
125.340 Provider Reimbursement

SUBPART D: KIDCARE REBATE

Section
125.400 Minimum Coverage Requirements
125.420 Coverage Verification Process
125.440 KidCare Insurance Rebate

AUTHORITY: Implementing and authorized by the Children's Health Insurance Program Act [215 ILCS 106] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 15706, effective August 12, 1998, for maximum of 150 days; adopted at 23 Ill. Reg. 9434, effective 9-4-98.

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effective DEC 24 1998.

SUBPART A: GENERAL PROVISIONS

Section 125.100 General Description

This Part implements the Children's Health Insurance Program Act [215 ILCS 106] (see Public Act 90-736) that authorizes the Department to administer an insurance program to assist families in purchasing health insurance benefits for their children. The program is not an entitlement. The program will enable eligible children of Illinois, to the extent funding permits, access to health benefits coverage. The Department shall provide health benefits coverage to eligible children through purchasing or providing health care benefits or by subsidizing the cost of privately sponsored health insurance, including employer-based health insurance.

Section 125.110 Definitions

For the purpose of this Part, the following terms shall be defined as follows:

"Act" means the Children's Health Insurance Program Act (Public Act 90-736).

"Caretaker Relative" means a relative, with whom the child lives, who is providing care, supervision and a home for the child. Caretaker relatives include:

Blood or adoptive relatives within the fifth degree of kinship:

father and mother

brother and sister

grandmother and grandfather (including up to great-great)

uncle and aunt (including up to great-great)

nephew and niece (including up to great-great)

first cousin

first cousin once removed (child of first cousin)

second cousin (child of great-aunt/uncle)

Step relatives:

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step-father and step-mother

step-brother and step-sister

Person who is or has been married to one of the above relatives

"Department" means the Department of Public Aid and any successor agencies.

"Emergency" means the provision of health care services for a medical condition of recent onset and severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that urgent or unscheduled medical care is required. Determinations of levels of service shall be based upon the symptoms and condition of the patient at the time the patient is initially examined by the physician and not upon the final determination of the patient's actual medical condition.

"Federal Poverty Level" means the federal poverty income guidelines as established by the Federal Department of Health and Human Services and published in the Federal Register annually within 30 days after the Consumer Price Index data are released.

"KidCare Health Plan" means the health benefits coverage containing cost sharing features that is available to eligible families under the Children's Health Insurance Program, and will include KidCare Share (no premium required) and KidCare Premium (premium required).

"KidCare Rebate" means the program under which the Department, on behalf of an eligible child, makes rebate payments to offset a family's cost of insuring a child under privately sponsored or employer-based health insurance.

"Managed Care Entity or MCE" means a Health Maintenance Organization or a Managed Care Community Network or a Prepaid Health Plan under contract with the Department.

"Medical Assistance" means health care benefits provided under Article V of the Illinois Public Aid Code.

"Program" means the program created under the Children's Health Insurance Program Act and this Part.

"Rebate" means the payment made by the Department under KidCare Rebate.

"REV" means the Recipient Eligibility Verification system through which medical providers can obtain eligibility and claim status

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information electronically.

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section 125.200 Eligibility for Children's Health Insurance Program

A child may be eligible under the Program provided that all of the following eligibility criteria are met:

- a) The child is not eligible for Medical Assistance.
- b) The child is under age 19.
- c) The child is a member of a family whose monthly countable income is above 133 percent of the Federal Poverty Level and at or below 185 percent of the Federal Poverty Level.
- d) The child is a resident of the State of Illinois.
- e) The child is either a United States citizen or included in one of the following categories of non-citizens:
 - 1) Unmarried dependent children of either a United States Veteran honorably discharged or a person on active military duty.
 - 2) Refugees under Section 207 of the Immigration and Nationality Act.
 - 3) Asylees under Section 208 of the Immigration and Nationality Act.
 - 4) Persons for whom deportation has been withheld under Section 243(h) of the Immigration and Nationality Act.
 - 5) Persons granted conditional entry under Section 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980.
 - 6) Persons lawfully admitted for permanent residence under the Immigration and Nationality Act.
 - 7) Parolees, for at least one year, under Section 212(d)(5) of the Immigration and Nationality Act.

Section 125.205 Eligibility Exclusions and Terminations

a) A child shall not be eligible for coverage under the Program if:

- 1) The child is an inmate of a correctional facility or a patient in a mental institution.
- 2) The child is a member of a family that is eligible for health benefits coverage under a State of Illinois health benefits plan on the basis of a member's employment with a public agency.
- 3) The application is for coverage under the KidCare Health Plan, described in Subpart C of this Part, and the child was covered under a private or employer-based insurance plan during any of the three months preceding his or her application for coverage under the Program.
- 4) The child is in categories described in Section 125.200(e)(6) or (e)(7), and the child entered the United States on or after August 22, 1996; he or she shall not be eligible for five years beginning on the date the child entered the United States.

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- b) The three month period of being uninsured specified in subsection (a)(3) above does not apply in the following situations:
- 1) A child is applying for coverage under the KidCare Rebate, described in Subpart D of this Part.
 - 2) A child becomes ineligible for Medical Assistance under Article V of the Public Aid Code and applies for coverage under the Program.
 - 3) A child involuntarily loses coverage through a private or employer-based insurance plan and applies for coverage under the KidCare Health Plan.
- c) Termination from the Program shall be initiated upon the occurrence of any of the following events:
- 1) The child becomes ineligible due to:
 - A) Losing his or her Illinois residency.
 - B) Attaining 19 years of age.
 - C) Becoming enrolled in Medical Assistance.
 - D) Meeting the provisions of subsection (a)(1) or (a)(2) of this Section.
 - 2) Failing to pay the required premiums under the KidCare Health Plan, as specified in Sections 125.320 and 125.330.
 - 3) A child enrolled in KidCare Rebate no longer being covered under a private or employer-based health insurance plan.
 - 4) Failing to report to the Department changes in non-financial information that impacts upon the child's eligibility for the Program.
 - 5) The child's caretaker relative makes a request to the Department to terminate the coverage.
 - 6) The Department determines that a child enrolled under the KidCare Health Plan has other significant health insurance.
 - 7) The Department determines that the child is no longer eligible based on any other applicable State or federal law or regulation.
 - 8) Failing to provide eligibility information that is truthful and accurate to the best of the applicant's knowledge and belief.
- d) Following termination from the Program, the following action is required to reapply:
- 1) A new application must be completed.
 - 2) There must be full payment of premiums under the KidCare Health Plan, for periods in which a premium was owed and not paid.
 - 3) There must be repayment of Rebates paid under KidCare Rebate, for periods during which the child was not covered under a private or employer-based insurance plan.
- e) A certificate of prior creditable coverage will be issued when a child's coverage is terminated under the KidCare Health Plan.

Section 125.220 Application Process

- a) Families will be able to apply for the Program using any of the following methods:

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- 1) Submitting the Department's application to an address specified by the Department.
 - 2) Applying at a Department of Human Services (DHS) local office.
 - 3) Applying at a Maternal and Child Health (MCH) enrollment site, as designated by the Department.
 - 4) Additional methods that the Department establishes.
- b) The application will meet all requirements found at 89 Ill. Adm. Code 110.10.
- c) Families are obligated to provide truthful and accurate information for determining eligibility and to report promptly to the Department any change in non-financial information provided on the application.

Section 125.230 Determination of Monthly Countable Income

- a) Monthly countable income for applications processed for the Program is determined by taking the total gross monthly income of the family and subtracting allowable deductions and exemptions as described in 89 Ill. Adm. Code 120, Subpart H.
- b) For the purpose of subsection (a) of this Section, the following applies:
- 1) The number of persons in the family determines the applicable income standard.
 - 2) For the purpose of subsection (a) of this Section, family means the child applying for the Program and the following persons who live with the child:
 - A) The child's parent(s).
 - B) The spouse of the child's parent(s).
 - C) Children under age 19 of the parent(s) or the parent's spouse.
 - D) The spouse of the child.
 - E) The children of the child.

Section 125.240 Eligibility Determination and Enrollment Process

- a) If the monthly countable income is at or below 133 percent of the Federal Poverty Level for the number of persons in the income standard, the child will be enrolled in Medical Assistance, if otherwise determined eligible pursuant to 89 Ill. Adm. Code 120, Subpart H.
- b) If the monthly countable income is above 133 percent and at or below 185 percent of the Federal Poverty Level for the number of persons in the income standard, and all other eligibility requirements of this Part are met and enrollment is open, the child will be enrolled in the Program.
- c) Applicants will be notified, in writing, regarding the outcome of their eligibility determinations.
- d) Eligibility determinations for the Program made by the fifteenth day of the month will be effective the first day of the following month.

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Eligibility determinations for the Program made after the fifteenth day of the month will be effective no later than the first day of the second month following that determination.

- e) Monthly identification cards will be issued for each family with a child enrolled under the KidCare Health Plan. At a minimum, information on the card will include:

- 1) The child's name.
 - 2) Coverage month.
 - 3) Copayment amounts and exclusions.
 - 4) Message when copayment cap is reached.
 - 5) Managed Care Entity chosen, if applicable.
- f) The duration of eligibility for the Program will be 12 months unless one of the events described in Section 125.205(c) occurs. The 12 months of eligibility will commence when the first child in a family is covered under the Program. Children added to the Program after the eligibility period begins will be eligible for the balance of the 12 month eligibility period.

Section 125.245 Appeals

- a) Any individual who applies for or receives assistance under the Program shall have the right to appeal any of the following actions:
- 1) Refusal to accept an application.

2) Denial of an application or annual determination including denial based on failure to meet one or more of the eligibility requirements specified in this Part. If the denial is not upheld on appeal, coverage under the Program shall be retroactive to the date the coverage would have commenced had the application or annual determination been approved. All premium and copayment requirements shall apply to the retroactive period.

3) Termination of coverage based on failure to continue to meet one or more of the eligibility requirements specified in this Part. Coverage shall not be continued during the appeal process. If the termination is not upheld on appeal, coverage under the Program shall be reinstated retroactive to the termination date and all premium and copayment requirements shall apply.

4) Determination or redetermination of the amount of the premium, insurance Rebate, or copayments required. Coverage and any premium or copayment requirements, as determined by the Department, shall remain in force during the appeal process.

- b) In addition to the actions that are appealable under subsection (a) of this Section, individuals covered under the KidCare Health Plan shall have the right to appeal any of the following actions:

- 1) Termination of coverage due to non-payment of the required premium.
- 2) Denial of payment for a medical service or item that requires prior approval.
- 3) Decision granting prior approval for a lesser or different

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- c) The Department's decision to deny an application due to closing of enrollment for the Program shall not be appealable.
- d) Individuals may initiate the appeal process by:

- 1) Filing a written, signed request for a hearing directed to the Department's Assistance Hearings Section;
- 2) Calling a toll free telephone number as designated by the Department.

e) The request for a hearing may be filed by the individual affected by the action or by the individual's authorized representative.

f) For purposes of initiating the appeal process, a copy of a written, signed request for a hearing is considered the same as the original written, signed request.

g) The request for a hearing must be filed no later than 60 days after notice of the appealable action has been given.

h) Unless otherwise specified, coverage shall not be continued when an appeal is pending.

i) The provisions of Subpart A of the Department's administrative rules at 89 Ill. Adm. Code 104, Practice in Administrative Hearings, shall govern the handling of appeals and the conduct of hearings under the Program.

j) An individual can, prior to a decision being rendered on the appeal, withdraw the appeal and reapply for the program.

Section 125.250 Annual Determinations

a) Eligibility determinations shall be reviewed by the Department, or its authorized agent, at least annually.

b) Prior to the 12 month eligibility period ending, and in sufficient time for the family to respond to the Department's request for information, the Department will send an annual determination notice to the family.

c) Annual determinations shall be subject to all eligibility requirements set forth in Sections 125.200 and 125.205.

Section 125.260 Adding Children to and Removing Children from the Program

a) Families may add eligible children to the Program during the 12 month eligibility period, without having to submit an application.

b) Premium amounts under the KidCare Health Plan and Rebates under KidCare Rebate will be adjusted to reflect adding or removing a child from the Program.

SUBPART C: KIDCARE HEALTH PLAN

Section 125.300 Covered Services

- a) For children covered under the KidCare Health Plan, covered health

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care services shall be the same covered services for children as described at 89 Ill. Adm. Code 140, 77 Ill. Adm. Code 2090, and 59 Ill. Adm. Code 132, unless contrary to the moral or religious beliefs as defined in the Right of Conscience Act [745 ILCS 70], subject to appropriation and any applicable cost sharing requirements defined in Section 125.310 and Section 125.320.

b) Children determined to be eligible for the KidCare Health Plan may obtain coverage for a period prior to the date of application for the Program. This coverage shall be subject to the following:

- 1) The family must request the prior coverage for the child within six months following the initial date of coverage under the KidCare Health Plan.
- 2) The prior coverage will be child specific and will only be available upon the child's initial application and approval for the Program.
- 3) If coverage lapses, re-enrollment shall be completed in advance of the next covered medical visit and the first month's premium, if applicable, shall be paid in advance of any covered medical visit.
- 4) The prior coverage will begin with services rendered during the two weeks prior to the date the child's application for the KidCare Health Plan is filed and will continue until the child's coverage under the KidCare Health Plan is effective.

Section 125.305 Service Exclusions

The following health care services will not be covered under the KidCare Health Plan:

- a) Services provided only through a waiver approved under Section 1915(c) of the Social Security Act.
- b) Abortion services.

Section 125.310 Copayments

a) Copayments may be charged by a health care professional whenever the service is performed in an office or home setting, except for visits scheduled for well-baby care, well-child care or age-appropriate immunizations. Copayments may also be charged by hospitals, once per inpatient admission or outpatient encounter (including the emergency room). No copayment is permitted for visits to health care professionals or hospitals made solely for radiology or laboratory services (including APT Group 2 procedures).

b) Copayment requirements are as follows:

- 1) Practitioner office visit:
 - A) Level I copayment: \$2 per visit.
 - B) Level II copayment: \$5 per visit.
- 2) Home health care visit:
 - A) Level I copayment: \$2 per visit.

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- B) Level II copayment: \$5 per visit.
- 3) Inpatient hospitalization:
 - A) Level I copayment: \$2 per admission.
 - B) Level II copayment: \$5 per admission.
- 4) Outpatient encounter (including the emergency room):
 - A) Level I copayment: \$2 per visit.
 - B) Level II copayment: \$5 per visit.
- 5) Prescription drugs:
 - A) Level I copayment: \$2 for a 1-30 day supply on both generic and brand name drugs.
 - B) Level II copayments: \$3 for a 1-30 day supply on generic drugs or \$5 for 1-30 day supply on brand name drugs.
- 6) Nonemergency visit to an emergency room:
 - A) Level I copayments: \$2 per visit.
 - B) Level II copayment: \$25 per visit.
- c) Copayment requirements will be determined based upon the monthly countable income as calculated in Section 125.230.
- d) The maximum out-of-pocket expense a family will incur for copayments during a 12 month eligibility period is \$100.
- e) The family is responsible for submitting receipts, to the Department, documenting the payment of copayments. The Department may return partial documentation received on copayments to the family.
- f) Upon the Department determining that the copayment cap has been satisfied, the following will occur:
 - 1) A notice stating that the copayment cap has been satisfied, and the date satisfied, will be sent to the family.
 - 2) A message that the copayment cap has been satisfied, and the date satisfied, will be printed on the next monthly identification card.
 - 3) REV will be updated to reflect that the copayment cap has been reached.
- g) Providers will be responsible for collecting copayments under the KidCare Health Plan.
- h) Providers may elect not to charge copayments. If copayments are charged, the copayment must comply with the requirements in this Section.
- i) Providers shall be responsible for refunding to the family copayments they collect after the family has reached the copayment cap.
- j) The Department will not require providers to deliver services when copayments will not be paid.
- k) Copayment levels will be determined based on family size and monthly countable income as follows:
 - 1) For family size of one:
 - A) Level I copayment: monthly countable income of \$893 to \$1,006.
 - B) Level II copayment: monthly countable income of \$1,007 to \$1,241.
 - 2) For family size of two:

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- 2) For family size of three:
 - A) Level I copayment: monthly countable income of \$1,204 to \$1,356.
 - B) Level II copayment: monthly countable income of \$1,357 to \$1,673.
- 3) For family size of three:
 - A) Level I copayment: monthly countable income of \$1,514 to \$1,706.
 - B) Level II copayment: monthly countable income of \$1,707 to \$2,104.
- 4) For family size of four:
 - A) Level I copayment: monthly countable income of \$1,824 to \$2,056.
 - B) Level II copayment: monthly countable income of \$2,057 to \$2,536.
- 5) For family size of five:
 - A) Level I copayment: monthly countable income of \$2,135 to \$2,406.
 - B) Level II copayment: monthly countable income of \$2,407 to \$2,968.
- 6) For family size of six:
 - A) Level I copayment: monthly countable income of \$2,445 to \$2,756.
 - B) Level II copayment: monthly countable income of \$2,757 to \$3,399.
- 7) For family size of seven:
 - A) Level I copayment: monthly countable income of \$2,755 to \$3,106.
 - B) Level II copayment: monthly countable income of \$3,107 to \$3,831.
- 8) For family size of eight:
 - A) Level I copayment: monthly countable income of \$3,066 to \$3,456.
 - B) Level II copayment: monthly countable income of \$3,457 to \$4,263.
- 9) For family units of more than eight members, add \$233 for each additional member.
- 1) The Department will review and update income levels annually to reflect changes in the Federal Poverty Levels.

Section 125.320 Premium Requirements

- a) Premium requirements under the KidCare Health Plan will be determined as follows:
 - 1) For family size of one:
 - A) No premium required: monthly countable income of \$893 to \$1,006.
 - B) Premium required: monthly countable income of \$1,007 to \$1,241.

DEPARTMENT OF PUBLIC AID

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- 2) For family size of two:
 - A) No premium required: monthly countable income of \$1,204 to \$1,356.
 - B) Premium required: monthly countable income of \$1,357 to \$1,673.
- 3) For family size of three:
 - A) No premium required: monthly countable income of \$1,514 to \$1,706.
 - B) Premium required: monthly countable income of \$1,707 to \$2,104.
- 4) For family size of four:
 - A) No premium required: monthly countable income of \$1,824 to \$2,056.
 - B) Premium required: monthly countable income of \$2,057 to \$2,536.
- 5) For family size of five:
 - A) No premium required: monthly countable income of \$2,135 to \$2,406.
 - B) Premium required: monthly countable income of \$2,407 to \$2,968.
- 6) For family size of six:
 - A) No premium required: monthly countable income of \$2,445 to \$2,756.
 - B) Premium required: monthly countable income of \$2,757 to \$3,399.
- 7) For family size of seven:
 - A) No premium required: monthly countable income of \$2,755 to \$3,106.
 - B) Premium required: monthly countable income of \$3,107 to \$3,831.
- 8) For family size of eight:
 - A) No premium required: monthly countable income of \$3,066 to \$3,456.
 - B) Premium required: monthly countable income of \$3,457 to \$4,263.
- 9) For family units of more than eight members, add \$233 for each additional member.
- b) Premium requirements will be determined based upon the monthly countable income as calculated in Section 125.230.
- c) The premium amounts are \$15 for one child, \$25 for two children and \$30 for three or more children.
- d) Premiums are billed by and payable to the Department, or its authorized agent, on a monthly basis.
- e) The premium due date will be 26 days after the fifth day of the calendar month preceding the month of coverage.
- f) The premium will not change during the eligibility period, unless the family reports a decrease in monthly countable income placing the family in the no premium level or the family adds or removes children

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from the coverage.

- g) The Department will review and update income levels annually to reflect changes in the Federal Poverty Levels.

Section 125.330 Non-payment of Premium

- a) KidCare Health Plan participants will have a grace period through the end of the coverage month to pay the premium.
- b) Failure to pay the full monthly premium by the last day of the grace period will result in termination of coverage.
- c) Partial premium payments will not be refunded.
- d) Collection action will be initiated by the Department to collect unpaid premiums.

Section 125.340 Provider Reimbursement

- a) Providers under this Part shall be subject to approval by the Department to provide health care under the Illinois Public Aid Code.
- b) Provider participation under this Part shall be voluntary.
- c) Providers under this Part shall be reimbursed in accordance with the established rates of the Department.
- d) In addition to reimbursements received from the Department, providers may retain copayments defined in Section 125.310.
- e) Providers under this Part shall be prohibited from billing families covered under the KidCare Health Plan any difference between the charge amount and the amount paid by the Department, except for copayments.
- f) Providers shall be responsible for refunding to the participant copayments collected in excess of the amounts permitted by this Part.

SUBPART D: KIDCARE REBATE

Section 125.400 Minimum Coverage Requirements

For an eligible child to participate in KidCare Rebate, the eligible child must be covered by an insurance plan that offers comprehensive major medical coverage providing benefits for physician and hospital inpatient services.

Section 125.420 Coverage Verification Process

- a) All applications for participation in KidCare Rebate must be accompanied by the Department's Insurance Rebate Form.
- b) Verification of insurance coverage for the previous 12 months will be required on reapplication for KidCare Rebate.
- c) The Department, or its authorized agent, may verify insurance coverage for participants under KidCare Rebate.
- d) Collection action will be initiated by the Department to collect Rebates paid when a child was not covered under a private or

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employer-based health plan.

Section 125.440 KidCare Insurance Rebate

- a) The Rebate will be paid to the individual policyholder insuring the child.
- b) The Department will issue Rebates on a monthly basis.
- c) The total dollar amount of the Rebate paid by the Department per child per month shall be the lesser of:
 - 1) The average dollar payment, less premium incurred per child per month, paid by the Department under the KidCare Health Plan, or
 - 2) The policyholder's monthly portion of the premium paid for coverage of children enrolled under KidCare Rebate.
- d) The Department shall set the amount of the Rebate, described in subsection (c) of this Section, prospectively based upon the prior fiscal year's experience adjusted for incurred, but not reported, claims and estimated increases or decreases in the cost of medical care. In calculating the Rebate amount for periods prior to July 1, 1999, the Department will use State fiscal year 1996 payments for children eligible for Medical Assistance and income assistance under the Aid to Families with Dependent Children Program, with appropriate adjustments for cost and utilization changes through January 1, 1999.

DEPARTMENT OF PUBLIC AID
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Special Eligibility Groups
- 2) Code Citation: 89 Ill. Adm. Code 118
- 3) Section Numbers: Adopted Action:
118.500 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: December 24, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 28, 1998 (22 Ill. Reg. 15514)

- 10) Has JCAR issued a statement of objections to these rules? No

11) Differences Between Proposal and Final Version:

The title of Subpart E has been changed to: "Certain Non-Citizen Children".

The title of Section 118.500 has been changed to: "Medical Services for Certain Non-Citizen Children".

In the first line of subsection (a), "as defined at 89 Ill. Adm. Code 120.310(b) and 89 Ill. Adm. Code 125.200(e)," has been added after "children,".

In subsections (a), (a)(1) and (a)(2), "immigrant children" has been changed to "non-citizen children".

In subsection (a)(2), the redundant period after "Adm." has been deleted.

In the second sentence of subsection (c), "such children" has been changed to "non-citizen children".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF PUBLIC AID
NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace emergency amendments currently in effect?
Yes
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments concern medical services for certain non-citizen children. The amendments will assist such children under 19 years of age who entered the United States on or after August 22, 1996, and who otherwise would receive medical services through Article V of the Public Aid Code or Public Act 90-736, except that they have not resided in the United States for five years, or are permanently residing in the United States under color of law (PRUCOL). Under these amendments, these non-citizen children may receive medical services, depending on the family's income level. The Department's fiscal year 1999 appropriation and the Budget Implementation Act (Public Act 90-588) provide authority for medical services to such children. The amendments do not create an entitlement to medical services for these children. Services will only be available to the extent that appropriations for such services remain available. The services provided under these amendments to Part 118 are expected to result in an annual expenditure of approximately \$4.4 million.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
(217) 524-0081

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 118
SPECIAL ELIGIBILITY GROUPS

SUBPART A: DISABLED ADULT CHILDREN

Section
118.100 Disabled Adult Children

SUBPART B: PERSONS WITH ACQUIRED
IMMUNODEFICIENCY SYNDROME (AIDS) OR AIDS RELATED COMPLEXES (ARC)

Section
118.150 Continuation of Health Insurance Coverage
118.200 Drugs to Prolong the Lives of Persons With Acquired Immunodeficiency
Syndrome (AIDS) or AIDS Related Complexes (ARC)

SUBPART C: WIDOWS AND WIDOWERS

Section
118.300 Widows and Widowers

SUBPART D: MISCELLANEOUS PROGRAM PROVISIONS

Section
118.400 Incorporation By Reference

SUBPART E: CERTAIN NON-CITIZEN CHILDREN

Section
118.500 Medical Services for Certain Non-Citizen Children

AUTHORITY: Implementing Articles III, IV, VI and Section 5-18 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, VI, 5-18 and 12-13].

SOURCE: Emergency rule adopted at 12 Ill. Reg. 3037, effective January 15, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 6301, effective March 18, 1988; amended at 12 Ill. Reg. 8068, effective April 26, 1988; amended at 13 Ill. Reg. 3950, effective March 10, 1989; amended at 14 Ill. Reg. 10442, effective June 20, 1990; emergency amendment at 15 Ill. Reg. 8708, effective June 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 11607, effective July 15, 1992; emergency amendment at 17 Ill. Reg. 11217, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19956, effective November 12, 1993; amended at 19 Ill. Reg. 7959, effective June 5,

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1995; amended by emergency rulemaking at 22 Ill. Reg. 15724, effective August 12, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 62, effective DEC 24 1998.

SUBPART E: CERTAIN NON-CITIZEN CHILDREN

Section 118.500 Medical Services for Certain Non-Citizen Children

a) Certain non-citizen children, as defined at 89 Ill. Adm. Code 120.310(b) and 89 Ill. Adm. Code 125.200(e), under 19 years of age, who would be eligible for medical services under Article V of the Public Aid Code or the Children's Health Insurance Program (89 Ill. Adm. Code 125), except that they may not receive such services because of the application of 89 Ill. Adm. Code 120.310(b)(2) or 89 Ill. Adm. Code 125.205(a)(4) or are permanently residing in the United States under color of law (PRUCOL), may be eligible for certain medical services if appropriation authority exists in any fiscal year.

1) Such non-citizen children who would otherwise be eligible for Medical Assistance may receive coverage for those medical services available under Article V, including those services under Article V administered by other agencies. All other requirements set forth under Article V must be met.

2) Such non-citizen children who would otherwise be eligible under 89 Ill. Adm. Code 125 may receive coverage for those medical services available under 89 Ill. Adm. Code 125. All other requirements set forth under 89 Ill. Adm. Code 125 must be met.

b) The provisions of 89 Ill. Adm. Code 125, Subpart B, including the handling of appeals and the conduct of hearings pursuant to the provisions of Subpart A of the Department's administrative rules at 89 Ill. Adm. Code 104, Practice in Administrative Hearings, shall govern any appeals under this Subpart.

c) There is no entitlement to medical services under this Subpart E and such services are available only to the extent that payments under this Subpart do not exceed the amounts appropriated for the purpose of this Subpart. The Department may cease enrollment, change standards of eligibility, or reduce services for non-citizen children if such appropriated funds are needed to provide services to children eligible under 89 Ill. Adm. Code 125 or if such action is deemed necessary to assure that payments do not exceed appropriation authority.

(Source: Added at 23 Ill. Reg. DEC 24 1998, effective DEC 24 1998)

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan
- 2) Code Citation: 80 Ill Adm. Code 2700
- 3) Section Numbers:
- | | |
|----------|--------------------------|
| 2700.110 | <u>Emergency Action:</u> |
| 2700.310 | Amend |
| 2700.600 | Amend |
| 2700.610 | Amend |
| 2700.660 | Amend |
| 2700.730 | Amend |
| 2700.740 | Amend |
| 2700.750 | Amend |
| 2700.800 | Amend |
| 2700.820 | Amend |

4) Statutory Authority: Implementing Section 457 of the Internal Revenue Code (26 USCA 457, 1986, as now or hereafter amended) and the rules of the Internal Revenue Service (26 CFR 1, April 1, 1988, as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

5) Effective Date of Amendments: January 1, 1999

6) If this emergency rule is to expire before end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) A copy of the Emergency Amendment, including any material incorporated by reference is on file in the agency's principal office and is available for public inspection.

8) Reason for Emergency: There was not sufficient time to develop proposed rules that could be processed through normal rulemaking and have the rules effective January 1, 1999.

9) A Complete Description of the Subjects and Issues Involved: Most of the amendments are required in connection with the amendments to Section 457(g) of the Internal Revenue Code that requires all assets held in a "457" plan maintained by a government agency be held in a trust, custodial account or insurance contract for the exclusive benefit of participants and beneficiaries. This must occur no later than January 1, 1999. Because the Plan is subject to Section 457, it has been decided to transfer the assets held under the Plan to a custodial account in order to comply with Section 457(g).

The other amendments involve eliminating the annuity option as a form of distribution and providing for annual recalculation of life expectancy in connection with an installment form of distribution.

NOTICE OF EMERGENCY AMENDMENTS

- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.
- 12) Information and questions regarding this amendment shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
217/782-9669

The full text of the Emergency Amendments begins on the next page:

NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE H: DEFERRED COMPENSATION

CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700

STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section
2700.100 Establishment of Plan
2700.110 Purpose of Plan
EMERGENCY

SUBPART B: DEFINITIONS

Section
2700.200 Definitions

SUBPART C: ADMINISTRATION

Section
2700.300 Responsibilities of the Department
2700.310 Responsibilities of the Board
EMERGENCY
2700.320 Deferred Compensation Hardship Committee
2700.330 Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section
2700.400 Eligibility
2700.410 Enrollment
2700.420 Minimum Deferral
2700.430 Maximum Deferral
2700.440 Catch-up
2700.450 Revocation of Deferral

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section
2700.500 Normal Retirement Age
2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section
2700.600 Deferred Compensation Accounts
EMERGENCY
2700.610 Allocation of Investment Earnings or Losses

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY
2700.620 Investment Fund Valuation
2700.630 Administrative Costs
2700.640 Method of Making Investment Requests
2700.650 Participant Statements
2700.660 Custodial Account Unsecured-General-Creditor
EMERGENCY
2700.670 Investment Funds

SUBPART G: DISTRIBUTIONS

Section
2700.700 Distribution Events
2700.710 Beneficiary Election of Method of Distribution
2700.720 Election of Delayed Distribution Date
2700.730 Election of Method of Distribution
EMERGENCY
2700.735 Distribution of Small Accounts
2700.740 Unforeseeable Emergency
EMERGENCY
2700.750 Designation of Beneficiary
EMERGENCY
2700.760 Leave of Absence

SUBPART H: MISCELLANEOUS

Section
2700.800 Nonassignability
EMERGENCY
2700.810 Payments to Minors and Incompetents
2700.820 Missing Persons
EMERGENCY
2700.830 Severability
2700.840 Days and Dates

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section
2700.900 Amendment of Plan
2700.910 Termination of Plan
2700.920 Merger with Prior Plans

APPENDIX A Administrative Rules (Repealed)
EXHIBIT A Administrative Rule I (Repealed)
EXHIBIT B Administrative Rule II (Repealed)
EXHIBIT C Administrative Rule III (Repealed)
EXHIBIT D Administrative Rule IV (Repealed)
EXHIBIT E Administrative Rule V (Repealed)
EXHIBIT F Administrative Rule VI (Repealed)

NOTICE OF EMERGENCY AMENDMENTS

AUTHORITY: Implementing Section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency amendment at 23 Ill. Reg. 65, effective January 1, 1999, for a maximum of 150 days.

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section 2700.110 Purpose of Plan

EMERGENCY

- a) The purpose of this Plan is to allow Employees to designate a portion of their Compensation to be withheld each month by the State of Illinois and invested at the discretion of and in a manner approved by the Board until Termination of Service, Unforeseeable Emergency or death of the Employee.
- b) ~~Any Compensation deferred by Employees may be invested by the Department, but there is no requirement for the Department or the State of Illinois to do so.~~
- b)c) Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the State of Illinois.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 565, effective January 1, 1999, for a maximum of 150 days)

SUBPART C: ADMINISTRATION

Section 2700.310 Responsibilities of the Board

EMERGENCY

- a) The Board has the responsibility for general supervision of the Plan which shall include, but not be limited to:
- 1) establishment of the Plan,
 - 2) approving or disapproving any proposed changes in the Plan,
 - 3) if deemed necessary by the Board, obtaining Internal Revenue Service and Illinois Department of Revenue approval for the Plan

NOTICE OF EMERGENCY AMENDMENTS

or any amendments thereto, and

4) reviewing any and all proposed investment offerings, each of which must be determined acceptable by the Board prior to being utilized for the investment of Deferred Compensation.

- b) Following approval by the Board of one or more types of investments, if any, to be offered to Participants, the Board shall prepare specifications and make them available to known administrators or providers of that type of investment.

c) The selection of the successful bidder for each investment will be based on the bidder's relative ability to provide the program as specified. The Board shall have the authority to:

- 1) waive minor informalities in bidding,
- 2) accept more than one bid, and
- 3) reject any and all bids.

d) The Board has the responsibility for selecting the custodians to hold the assets of the Plan in accordance with Section 457(q) of the Code and for entering into related custodial agreements in connection therewith.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 65, effective January 1, 1999, for a maximum of 150 days)

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section 2700.600 Deferred Compensation Accounts

EMERGENCY

- a) The State of Illinois shall establish a "Deferred Compensation Account" for each Participant which shall be the basis for any distributions payable to the Participant under Section 2700.730.
- b) Each Participant's Deferred Compensation Account shall be credited with the amount of any Compensation deferred and shall be further credited or debited, as applicable, with:
- 1) any increase or decrease resulting from investments made by the State pursuant to Section 2700.670,
 - 2) any applicable expenses incurred by the State in maintaining and administering this plan,
 - 3) any debits for the amount of any distribution,
 - 4) any credit for the initial value on the effective date of this Plan of any bookkeeping account maintained under the Prior Plans, ~~and~~
 - 5) ~~a debit in an amount equivalent to the present value of any annuity option selected in accordance with Section 2700.730(a)(4); the value of such a Participant's deferred Compensation Account shall thereafter be determined in accordance with the terms of such annuity options.~~

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 565, effective January 1, 1999, for a maximum of 150 days)

NOTICE OF EMERGENCY AMENDMENTS

Section 2700.610 Allocation of Investment Earnings or Losses
EMERGENCY

- a) To the extent that Investment Funds are established by the Board, Deferred Compensation Accounts shall be allocated among such Investment Funds credited or debited as if they were invested according to the investment elections requests in effect on behalf of the Participants. Earnings and losses of each Investment Fund shall be based on the actual investment experience of such any applicable Investment Fund.
- b) Earnings and losses will be measured from the Accounting Date coincident with or immediately preceding the date on which any Deferred Compensation is invested in any Investment Fund to the Accounting Date coincident with or immediately preceding the date any Deferred Compensation is withdrawn from any Investment Fund.
- c) The amount of earnings or losses allocated to each Deferred Compensation Account shall reflect the proportion a Participant's Deferred Compensation Account represents in relation to the other Deferred Compensation Accounts having an interest in that Fund.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 565, effective January 1, 1999, for a maximum of 150 days)

Section 2700.560 Custodial Account Unsecured General Creditor
EMERGENCY

- a) Notwithstanding any contrary provision of the Plan, in accordance with Section 457(g) of the Code, all amounts of compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held in one or more custodial accounts for the exclusive benefit of participants and beneficiaries under the Plan. For purposes of this subsection, the custodian of any custodial account created pursuant to the Plan must be a bank, as described in Section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under Section 408(a)(2) of the Code relating to the use of non-bank trustees. All amounts of compensation deferred under the Plan shall be transferred to a custodial account described in Section 401(f) of the Code within a period that is not longer than is reasonable for the proper administration of the accounts of participants. As required by the Internal Revenue Code, Section 457, title to, and beneficial ownership of, any assets, whether in cash or investments, which the State of Illinois may earmark to pay or measure any deferred compensation under this Plan, shall at all times remain as a part of the general assets of the State of Illinois.
- b) The Participant and his or her beneficiary shall not have any property interest whatsoever in any specific asset of the State of Illinois on account of his or her election to defer any Compensation under this Plan.

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- c) ~~No--the--extent--that--any--person--acquires--a--right--to--receive--payments--from--the--State--of--Illinois--under--the--terms--of--this--Plan--such--right--shall--be--no--greater--than--the--right--of--any--unsecured--general--creditor--of--the--State--of--Illinois.~~

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 565, effective January 1, 1999, for a maximum of 150 days)

SUBPART G: DISTRIBUTIONS

Section 2700.730 Election of Method of Distribution
EMERGENCY

- a) At any time prior to the end of the Participant's election period, a Participant may elect one or more of the following methods by which the Deferred Compensation Account shall be distributed:
- 1) A lump sum cash payment of all or a portion of the balance of the Account. The amount paid for such lump sum withdrawal shall be based upon the value of the Participant's Account as of the Accounting Date.
 - 2) Monthly installments of fixed dollar amounts.
 - A) The installment dollar amount may be selected by the Participant, but shall not be less than the amount determined to provide for total payout over a period of years not to exceed the life expectancy of the Participant. The installment dollar amounts may be changed by the Department, but only to assure adherence to Section 2700.730(a)(3)(B) of the Plan or as ordered by the Hardship Committee.
 - C) The amount of each distribution may be transferred electronically to the Participant's bank or other account which accepts direct deposits from the State or its agent.
 - 3) In installments over a period of years not longer than the life expectancy of the Participant.
 - A) Such installments shall be made in regular increments of monthly, quarterly, semi-annual or annual payments. The amount of each distribution may be transferred electronically to the Participant's bank or other account which accepts direct deposits from the State, or its agent, except for annual payments.
 - B) Such installments shall be made in such amount to assure that the total value of the Participant's account shall be received by the Participant during his or her projected life time (as determined at the time distributions commence or as otherwise provided by applicable code and regulations).
 - C) For the purposes of this Plan, the Participant's life expectancy shall be determined by an applicable Internal Revenue Service Table in accordance with the regulations under Section 401(a)(9) of the Code, provided, however, that the Participant may elect whether or not his or her life

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expectancy will be recalculated annually. Such election must be made prior to the first required distribution date, shall be irrevocable and shall apply to all subsequent years. 196-GR-547-52-PR-280767-July-27,-1987-at-the-time the Participant elects the distribution method.

- D) Any portion of the Deferred Compensation Account which has not been distributed shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610.

E) The amount of a periodic installment benefit payment shall be determined each time there is a distribution. This amount shall be calculated on the Accounting Date for the month based on the value of the Participant's Account on that date and the number of installments remaining. However, the final installment will be an amount equal to the value of the Participant's Account on the Accounting Date for that final distribution.

- 4) A series of payments based on an annuity contract purchased by the Plan on behalf of the Participant.

A) Such annuity payments shall be based on one of the following methods:

- i) fixed payments over the life of the Participant, or
- ii) fixed payments not longer than the life expectancy of the Participant, or
- iii) fixed payments over a period no longer than the balance of the deceased Participant's installment period in the case of a distribution when the account was partially distributed to the Participant before death, or
- iv) fixed payments over a period not to exceed the Beneficiary's life expectancy or 15 years, whichever is shorter in the case of a distribution which does not begin before the death of the Participant.

B) Once payments have commenced on an annuity basis, payments to a Beneficiary will depend on the terms of the annuity payments agreed to by the Participant and the State. The amount payable to the Participant shall be based upon the interest and mortality assumptions which are consistent with the non-participating annuity purchase yields available from the company for the purchase of such annuities and currently in effect at the time of the purchase.

- E) If, in fact, an annuity contract is purchased, the owner and named Beneficiary shall be the State of Illinois. Any rights of Participants or Beneficiaries are derived solely from this plan.

4)5) A transfer of all of the account from this plan to an eligible plan authorized under Section 457 of the Code.

- A) The State or local government sponsoring the receiving 457 Plan is responsible for determining whether the Plan is eligible and certifying the same on a form provided by the

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Department.

- B) The transfer will commence on the next Accounting Date following receipt of the certification and any other required forms.
- C) In the event the receiving plan is not an eligible plan or does not authorize transfers, the distribution of the account will be held no longer than 180 days and the Participant will be given 30 days to make a new distribution method election.

b) If the Participant does not elect a method of distribution prior to the end of the Participant's election period, the Deferred Compensation Account will be distributed in five annual installments, unless the amount of the account is \$3,500 or less in which case it will be distributed immediately in a lump sum.

- c) The Participant's election becomes irrevocable after the election period expires.

(Source: Amended by emergency rulemaking at 23 Ill. Reg.

effective January 1, 1999, for a maximum of 150 days)

Section 2700.740 Unforeseeable Emergency

EMERGENCY

a) A distribution of all or a portion of a Participant's Deferred Compensation Account or a change in method of distribution to a Participant shall be permitted in the event the Participant experiences an Unforeseeable Emergency.

- b) Distributions shall not be made to the extent that such hardship is or may be relieved:

- 1) through reimbursement or compensation by insurance or otherwise,
- 2) by liquidation of the Participant's assets to the extent the liquidation of such assets would not itself cause severe financial hardship, or
- 3) by cessation of deferrals under the Plan.

c) A Participant's deferrals will automatically be revoked upon application for a hardship distribution.

d) If the application is approved, the Participant cannot re-enroll for 12 months following receipt of the hardship application, unless the application is to request cessation of distribution payments.

e) For the purposes of this Plan, a Beneficiary whose interest has "vested" in accordance with Section 2700.750 shall have all rights of a Participant to request a distribution or a change-in-method-of distribution in the event of an Unforeseeable Emergency.

- f) A Participant desiring a distribution by reason of a serious Unforeseeable Emergency must apply to the Hardship Committee and demonstrate that:

- 1) the circumstances being experienced were not under the Participant's control, and
- 2) the circumstances constitute a real emergency which is likely to cause the Participant great financial hardship.

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- g) The Hardship Committee shall have the authority to require such medical or other evidence as it may need to determine the necessity for Participant's withdrawal request. In the event this information is not provided, the case will be considered closed 60 days after the date of request by the Hardship Committee.
- h) The Hardship Committee shall reach its decision to approve or disapprove the financial hardship withdrawal request within 30 days following receipt of the completed application and necessary information required by the application or the Hardship Committee.
- i) In the event a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in distribution, the Participant may appeal in writing to the Board within 15 days of receipt of the Hardship Committee's decision.
- j) The Board shall, within 30 days of receipt of the appeal, conduct a hearing and review evidence presented by the Participant.
- k) The Board shall then render a final decision within 15 days of the hearing which shall be binding on all parties.
- l) If an application for an Unforeseeable Emergency distribution is approved, the distribution shall be limited to an amount sufficient only to meet the emergency and shall in no event exceed the amount of his or her Deferred Compensation Account as of the Accounting Date next preceding or coincident with such withdrawal.
- m) The allowed distribution shall be payable in a method determined by the Hardship Committee and shall commence as soon as possible, but not later than 30 days after notice to the Participant and the Department of approval of the request by the Committee.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. effective January 1, 1999, for a maximum of 150 days)

Section 2700.750 Designation of Beneficiary

EMERGENCY

- a) A Participant may designate a Beneficiary or Beneficiaries who will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.
- b) A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. Such designation shall be in writing and should be made on a form provided by the Department for that purpose which has been signed by the Participant.
- c) A Participant may, at any time, change his or her Beneficiary by completion of the form provided by the Department.
- d) No Beneficiary shall have any rights under this Plan until the death of the Participant who has designated him or her.
- e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest will become effective only upon the death of all primary Beneficiary(ies), or if all the primary Beneficiary(ies) designation(s) has (have) been found invalid.
- f) If more than one Beneficiary is named in either category, benefits

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will be paid according to the following rules:

- 1) Beneficiaries can be designated to share equally or to receive specific percentages.
- 2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.
- g) A person, trust, estate or other legal entity may be designated as a Beneficiary.
- h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.
- i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "Vested Beneficiary" and have all the rights of the Participant with the exception of making any deferrals.
- j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number, and a certified copy of the Participant's death certificate.
- k) In the event of a conflict between the provisions of this Section and any annuity contract purchased in accordance with distribution which has commenced under Section 2700.730(a)(4), as in effect prior to January 1, 1999, the latter shall prevail.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. effective January 1, 1999, for a maximum of 150 days)

SUBPART H: MISCELLANEOUS

Section 2700.800 Nonassignability

EMERGENCY

- a) The contract entered into between the Employer and a Participant through this Plan and the benefits, proceeds or payments thereunder cannot be sold, assigned, pledged, commuted, transferred or otherwise conveyed by an Employee, Participant or Beneficiary. Any attempt to assign or transfer shall not be recognized and shall impose no liability upon the Employer.
- b) To the extent required under a final judgment, decree, or order made pursuant to a State domestic relations law that relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse or child or other dependent of the Participant (an "Alternate Payee"), a portion of a Participant's Deferred Compensation Account may be transferred to a separate account and any amount so set aside shall be distributed to the Alternate

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Payee upon the Participant's termination of service or death, whichever of the two events shall first occur. ~~the State of Illinois shall be the owner of all Deferred Compensation Accounts under this Plan and shall be the sole beneficiary of any investment contract entered into pursuant to this plan; the Board shall be the custodian of any investment contracts and shall take the steps necessary to provide a place of safekeeping for them.~~

c) Except as otherwise required by law, any Deferred Compensation monies withheld pursuant to this Plan shall not be subject to attachment, garnishment, or execution, or to transfer by operation of law in the event of bankruptcy or insolvency of the Participant or otherwise.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 505, effective January 1, 1999, for a maximum of 150 days)

Section 2700.820 Missing Persons

EMERGENCY

- a) If the Department is unable to ascertain the whereabouts or identity of any person who is due to receive a benefit under this Plan at the time that benefit is due, the Department shall attempt to serve notice on such person by certified mail addressed to that person's last known address.
- b) Should such attempt to serve notice fail, the Department shall ask the help of the Department of Financial Institutions in advertising the need to locate the person pursuant to 38 Ill. Adm. Code 180.
- c) Should such attempt to locate that person fail, the Department shall authorize payment of pay that benefit and all other benefits due such a person to the primary Beneficiary(ies).
- d) If there are no other primary Beneficiaries, the Department shall authorize payment of that benefit to pay the contingent Beneficiaries.
- e) If there are no contingent Beneficiaries, the Department shall authorize payment of that benefit to pay the estate of the Participant.
- f) If there is no open estate, or if the heirs of the estate cannot be found to open an estate, then seven years after the Participant's death, the Department shall authorize payment of that benefit pay the balance of the account to the General Revenue Fund of the State of Illinois seven years after the Participant's death.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. effective January 1, 1999, for a maximum of 150 days)

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- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3) Section Numbers: Emergency Action:
113.10 Amendment
- 4) Statutory Authority: 305 ILCS 5/12-4.34
- 5) Effective Date of Amendments: January 1, 1999
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable

7) Date filed with the Index Department: January 1, 1999

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency:

These policies must be put into place to protect the health, safety and welfare of non-citizens who have been battered or subjected to extreme cruelty but who do not otherwise meet the current citizenship requirements.

10) A Complete Description of the Subject and Issues:

As a result of these proposed amendments, certain non-citizens will meet the immigration status requirement for assistance if they meet the following criteria:

- . The person was admitted to the U.S. as a spouse, widow, or child of a U.S. citizen or as a spouse or child of a non-citizen who is a lawful permanent abused resident (LPR).
- . The person has been subjected to extreme cruelty by the U.S. citizen or LPR or by a member of that relative's family who lived with them.
- . The person needs assistance, at least in part, due to the abuse.
- . The person no longer lives with the abuser or plans to live separately within one month after receipt of assistance.

These proposed amendments also establish that persons who meet these

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criteria are qualified non-citizens. They do not have to wait 5 years after entering the U.S. to qualify for assistance. The children of an abused parent or the parents of an abused child may also qualify with the abused person, if they did not participate in the abuse.

Companion amendments are also being proposed to 89 Ill. Adm. Code 112 and 114.

11) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
113.107	Amendment	22 Ill. Reg. 15872
113.111	Amendment	22 Ill. Reg. 15872
113.157	Amendment	22 Ill. Reg. 11266
113.158	New Section	22 Ill. Reg. 11266
113.309	Repeal	22 Ill. Reg. 16131

12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

13) Information and questions regarding these amendments shall be directed to:

Ms. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield ILL 62762
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the emergency amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section	Description of the Assistance Program
113.1	Incorporation By Reference
113.5	

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
113.9	Client Cooperation
113.10	Citizenship
EMERGENCY	
113.20	Residence
113.30	Age
113.40	Blind
113.50	Disabled
113.60	Living Arrangement
113.70	Institutional Status
113.80	Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section		Date of
113.100	Unearned Income	
113.101	Budgeting Unearned Income	
113.102	Budgeting Unearned Income of Applicants Receiving Income	
113.103	Application And/Or Date of Decision	
113.104	Initial Receipt of Unearned Income	
113.105	Termination of Unearned Income	
113.106	Unearned Income In-Kind	
113.107	Earmarked Income	
113.108	Lump Sum Payments and Income Tax Refunds	
113.109	Protected Income (Repealed)	
113.110	Earned Income (Repealed)	
113.111	Budgeting Earned Income (Repealed)	
113.112	Protected Income	
113.113	Earned Income	
113.114	Exempt Unearned Income	
	Budgeting Earned Income of Applicants Receiving Income	
	Application And/Or Date of Decision	

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113.115 Initial Employment
113.116 Budgeting Earned Income For Contractual Employees
113.117 Budgeting Earned Income For Non-contractual School Employees
113.118 Termination of Employment
113.120 Exempt Earned Income
113.125 Recognized Employment Expenses
113.130 Income From Work/Study/Training Programs
113.131 Earned Income From Self-Employment
113.132 Earned Income From Roomer and Boarder
113.133 Earned Income From Rental Property
113.134 Earned Income In-Kind
113.139 Payments from the Illinois Department of Children and Family Services
113.140 Assets
113.141 Exempt Assets
113.142 Asset Disregard
113.143 Deferral of Consideration of Assets
113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
113.156 Court Ordered Child Support Payments of Parent/Step-Parent
113.157 Sponsors of Aliens
113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

Section
113.245 Payment Levels for AABD
113.246 Personal Allowance
113.247 Personal Allowance Amounts
113.248 Shelter
113.249 Utilities and Heating Fuel
113.250 Laundry
113.251 Telephone
113.252 Transportation, Lunches, Special Fees
113.253 Allowances for Increase in SSI Benefits
113.254 Nursing Care or Personal Care in Home Not Subject to Licensing
113.255 Sheltered Care in a Licensed Group Care Facility
113.256 Shopping Allowance
113.257 Special Allowances for Blind and Partially Sighted (Blind Only)
113.258 Home Delivered Meals
113.259 AABD Fuel and Utility Allowances By Area
113.260 Sheltered Care Rates
113.261 Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262 Meeting the Needs of an Ineligible Dependent with Client's Income

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SUBPART E: OTHER PROVISIONS

Section
113.300 Persons Who May Be Included In the Assistance Unit
113.301 Grandfathered Cases
113.302 Interim Assistance (Repealed)
113.303 Special Needs Authorizations
113.304 Retrospective Budgeting
113.305 Budgeting Schedule
113.306 Purchase and Repair of Household Furniture (Repealed)
113.307 Property Repairs and Maintenance
113.308 Excess Shelter Allowance
113.309 Limitation on Amount of AABD Assistance to Recipients from Other States
113.320 Redetermination of Eligibility
113.330 Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

Section
113.400 Description of the Interim Assistance Program
113.405 Pending SSI Application (Repealed)
113.410 More Likely Than Not Eligible for SSI (Repealed)
113.415 Non-Financial Factors of Eligibility (Repealed)
113.420 Financial Factors of Eligibility (Repealed)
113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
113.435 Medical Eligibility (Repealed)
113.440 Attorney's Fees for SSI Applicants (Repealed)
113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective

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September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 29, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12273, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill.

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Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency

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amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 1794, effective January 1, 1999, for a maximum 150 days.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 113.10 Citizenship
EMERGENCY

To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to specific restrictions as set forth below:

- a) Citizenship status -- Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign country of U.S. citizen parent(s).
- b) Non-citizens
 - 1) The following categories of non-citizens may receive assistance, if otherwise eligible:
 - A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;
 - B) Refugees under Section 207 of the Immigration and Nationality Act (INA);
 - C) Asylees under Section 208 of the INA;
 - D) Persons for whom deportation has been withheld under Section

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NOTICE OF EMERGENCY AMENDMENTS

- 243(h) of the INA;
- E) Persons granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980;
- F) Persons lawfully admitted for permanent residence under the INA; and
- G) Parolees, for at least one year, under Section 212(d)(5) of the INA; and
- H) Persons admitted to the U.S. as a spouse, widow or child of a U.S. citizen or as a spouse or child of a lawful permanent abused resident (LPR) who have been subjected to extreme cruelty by the U.S. citizen or LPR or a member of that relative's family who lived with them, who no longer live with the abuser or plans to live separately within one month after receipt of assistance and whose need for assistance is due, at least in part, to the abuse.

- 2) Those persons who are in the categories set forth in (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 1794, effective January 1, 1999, for a maximum of 150 days)

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Section Numbers: Emergency Action:
114.10 Amendment
- 4) Statutory Authority: 305 ILCS 5/12-4.34
- 5) Effective Date of Amendments: January 1, 1999
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable
- 7) Date filed with the Index Department: January 1, 1999
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These policies must be put into place to protect the health, safety and welfare of non-citizens who have been battered or subjected to extreme cruelty but who do not otherwise meet the current citizenship requirements.
- 10) A Complete Description of the Subject and Issues: As a result of these proposed amendments, certain non-citizens will meet the immigration status requirement for assistance if they meet the following criteria:
- The person was admitted to the U.S. as a spouse, widow, or child of a U.S. citizen or as a spouse or child of a non-citizen who is a lawful permanent abused resident (LPR).
 - The person has been subjected to extreme cruelty by the U.S. citizen or LPR or by a member of that relative's family who lived with them.
 - The person needs assistance, at least in part, due to the abuse.
 - The person no longer lives with the abuser or plans to live separately within one month after receipt of assistance.

These proposed amendments also establish that persons who meet these criteria are qualified non-citizens. They do not have to wait 5 years after entering the U.S. to qualify for assistance. The children of an abused parent or the parents of an abused child may also qualify with the abused person, if they did not participate in the abuse.

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Companion amendments are also being proposed to 89 Ill. Adm. Code 112 and 113.

- 11) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
114.223	Amendment	22 Ill. Reg. 15901
114.224	Amendment	22 Ill. Reg. 15901
114.406	Repeal	22 Ill. Reg. 16133
114.408	New Section	22 Ill. Reg. 11279

- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 13) Information and questions regarding these amendments shall be directed to:

Mr. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 114
GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

Section	
114.1	Description of the Assistance Program
114.2	Determination of Not Employable
114.3	Advocacy Program for Persons Receiving State Transitional Assistance
114.5	Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
114.9	Client Cooperation
114.10	Citizenship
EMERGENCY	
114.20	Residence
114.30	Age
114.40	Relationship
114.50	Living Arrangement
114.52	Social Security Numbers
114.60	Work Registration Requirements (Outside City of Chicago only)
114.61	Individuals Exempt From Work Registration Requirements (Outside City of Chicago only)
114.62	Job Service Registration (Outside City of Chicago only)
114.63	Failure to Maintain Current Job Service Registration (Outside City of Chicago only)
114.64	Responsibility to Seek Employment (Outside City of Chicago only)
114.70	Initial Employment Expenses (Outside City of Chicago only)
114.80	Downstate General Assistance Work and Training Programs
114.85	Downstate General Assistance - Food Stamps Employment and Training Pilot Project
114.90	Project Chance Participation/Cooperation Requirements (Renumbered)
114.100	General Assistance Jobs Program (Repealed)
114.101	Persons Ineligible for TANF Due to Time Limits

SUBPART C: PROJECT ADVANCE

Section	
114.108	Project Advance (Repealed)
114.109	Project Advance Participation Requirements of Adjudicated Fathers (Repealed)
114.110	Project Advance Cooperation Requirements of Adjudicated Fathers

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(Repealed)	
114.111	Project Advance Sanctions (Repealed)
114.113	Project Advance Good Cause for Failure to Comply (Repealed)
114.115	Individuals Exempt From Project Advance (Repealed)
114.117	Project Advance Supportive Services (Repealed)

SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

Section	
114.120	Employment and Training Requirements
114.121	Persons Required to Participate in Project Chance (Repealed)
114.122	Advocacy Program for Persons Who Have Applied for Supplemental Security Income (SSI) Under Title XVI of the Social Security Act (Repealed)
114.123	Persons in Need of Work Rehabilitative Services (WRS) to Become Employable (Repealed)
114.124	Employment and Training Participation/Cooperation Requirements (Repealed)
114.125	Employment and Training Program Orientation (Repealed)
114.126	Employment and Training Program Full Assessment Process/Development of an Employment Plan (Repealed)
114.127	Employment and Training Program Components (Repealed)
114.128	Employment and Training Sanctions (Repealed)
114.129	Good Cause For Failure to Cooperate With Work and Training Participation Requirements (Repealed)
114.130	Employment and Training Supportive Services (Repealed)
114.135	Conciliation and Fair Hearings (Repealed)
114.140	Employment Child Care (Repealed)

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section	
114.200	Unearned Income
114.201	Budgeting Unearned Income
114.202	Budgeting Unearned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
114.203	Initial Receipt of Unearned Income
114.204	Termination of Unearned Income
114.210	Exempt Unearned Income
114.220	Education Benefits
114.221	Unearned Income In-Kind
114.222	Earmarked Income
114.223	Lump-Sum Payments
114.224	Protected Income
114.225	Earned Income
114.226	Budgeting Earned Income
114.227	Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision

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114.228 Initial Employment
 114.229 Termination of Employment
 114.230 Exempt Earned Income
 114.235 Recognized Employment Expenses
 114.240 Income From Work/Study/Training Program (Repealed)
 114.241 Earned Income From Self-Employment
 114.242 Earned Income From Roomer and Boarder
 114.243 Earned Income From Rental Property
 114.244 Earned Income In-Kind
 114.245 Payments from the Illinois Department of Children and Family Services
 114.246 Budgeting Earned Income For Contractual Employees
 114.247 Budgeting Earned Income For Non-contractual School Employees
 114.250 Assets
 114.251 Exempt Assets
 114.252 Asset Disregards
 114.260 Deferral of Consideration of Assets (Repealed)
 114.270 Property Transfers (Repealed)
 114.280 Supplemental Payments

SUBPART F: PAYMENT AMOUNTS

Section

114.350 Payment Levels
 114.351 Payment Levels in Group I Counties
 114.352 Payment Levels in Group II Counties
 114.353 Payment Levels in Group III Counties

SUBPART G: OTHER PROVISIONS

Section

114.400 Persons Who May Be Included In the Assistance Unit
 114.401 Eligibility of Strikers
 114.402 Special Needs Authorizations (Repealed)
 114.403 Institutional Status
 114.404 Retrospective Budgeting
 114.405 Budgeting Schedule
 114.406 Limitation on Amount of General Assistance to Recipients from Other States
 114.420 Redetermination of Eligibility
 114.430 Extension of Medical Assistance Due to Increased Income from Employment
 114.440 Attorney's Fees for VA Appellants
 114.442 Attorney's Fees for SSI Applicants

SUBPART H: CHILD CARE

Section

114.450 Child Care (Repealed)

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114.452 Child Care Eligibility (Repealed)
 114.454 Qualified Provider (Repealed)
 114.456 Notification of Available Services (Repealed)
 114.458 Participant Rights and Responsibilities (Repealed)
 114.462 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
 114.464 Rates of Payment for Child Care (Repealed)
 114.466 Method of Providing Child Care (Repealed)

SUBPART I: TRANSITIONAL CHILD CARE

Section

114.500 Transitional Child Care Eligibility (Repealed)
 114.504 Duration of Eligibility for Transitional Child Care (Repealed)
 114.506 Loss of Eligibility for Transitional Child Care (Repealed)
 114.508 Qualified Provider (Repealed)
 114.510 Notification of Available Services (Repealed)
 114.512 Participant Rights and Responsibilities (Repealed)
 114.514 Child Care Overpayments and Recoveries (Repealed)
 114.516 Fees for Service for Transitional Child Care (Repealed)
 114.518 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134,

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effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 7, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9909, effective August 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 16107; amended at 7 Ill. Reg. 16408, effective November 30, 1983; amended at 7 Ill. Reg. 16652, effective December 1, 1983; amended at 8 Ill. Reg. 243, effective December 27, 1983; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6764, effective April 27, 1984; amended at 8 Ill. Reg. 11435, effective June 27, 1984; amended at 8 Ill. Reg. 13319, effective July 16, 1984; amended at 8 Ill. Reg. 16237, effective August 24, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17896; amended at 9 Ill. Reg. 314, effective January 1, 1985; emergency amendment at 9 Ill. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9557, effective June 5, 1985; amended at 9 Ill. Reg. 10764, effective July 5, 1985; amended at 9 Ill. Reg. 15800, effective October 16, 1985; amended at 10 Ill. Reg. 1924, effective January 17, 1986; amended at 10 Ill. Reg. 3660, effective January 30, 1986; emergency amendment at 10 Ill. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 4896, effective March 7, 1986; amended at 10 Ill. Reg. 10681, effective June 3, 1986; amended at 10 Ill. Reg. 11041, effective June 5,

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1986; amended at 10 Ill. Reg. 12662, effective July 14, 1986; amended at 10 Ill. Reg. 15118, effective September 5, 1986; amended at 10 Ill. Reg. 15640, effective September 19, 1986; amended at 10 Ill. Reg. 19079, effective October 24, 1986; amended at 11 Ill. Reg. 2307, effective January 16, 1987; amended at 11 Ill. Reg. 5297, effective March 11, 1987; amended at 11 Ill. Reg. 6238, effective March 20, 1987; emergency amendment at 11 Ill. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 18311, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18689, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20129, effective December 4, 1987; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 889, effective January 1, 1988; SUBPARTS C, D and E recodified to SUBPARTS E, F and G at 12 Ill. Reg. 2147; Section 114.110 recodified to Section 114.52 at 12 Ill. Reg. 2984; amended at 12 Ill. Reg. 3505, effective January 22, 1988; amended at 12 Ill. Reg. 6170, effective March 18, 1988; amended at 12 Ill. Reg. 6719, effective March 22, 1988; amended at 12 Ill. Reg. 9108, effective May 20, 1988; amended at 12 Ill. Reg. 9699, effective May 24, 1988; amended at 12 Ill. Reg. 9940, effective May 31, 1988; amended at 12 Ill. Reg. 11474, effective June 30, 1988; amended at 12 Ill. Reg. 14255, effective August 30, 1988; emergency amendment at 12 Ill. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16729, effective September 30, 1988; amended at 12 Ill. Reg. 20171, effective November 28, 1988; amended at 13 Ill. Reg. 89, effective January 1, 1989; amended at 13 Ill. Reg. 1546, effective January 20, 1989; amended at 13 Ill. Reg. 3900, effective March 10, 1989; amended at 13 Ill. Reg. 8580, effective May 20, 1989; emergency amendment at 13 Ill. Reg. 16169, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16015, effective October 6, 1989; amended at 14 Ill. Reg. 746, effective January 1, 1990; amended at 14 Ill. Reg. 3640, effective February 23, 1990; amended at 14 Ill. Reg. 6360, effective April 16, 1990; amended at 14 Ill. Reg. 10929, effective June 20, 1990; amended at 14 Ill. Reg. 13215, effective August 6, 1990; amended at 14 Ill. Reg. 13777, effective August 10, 1990; amended at 14 Ill. Reg. 14162, effective August 17, 1990; amended at 14 Ill. Reg. 17111, effective September 30, 1990; amended at 15 Ill. Reg. 288, effective January 1, 1991; amended at 15 Ill. Reg. 5710, effective April 10, 1991; amended at 15 Ill. Reg. 11164, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 15144, effective October 7, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3512, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 4540, effective March 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11662, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13297, effective August 15, 1992; emergency amendment at 16 Ill. Reg. 13651, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14769, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 16276, effective October 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17772, effective November 13, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18815,

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effective November 24, 1992; amended at 17 Ill. Reg. 1091, effective January 15, 1993; amended at 17 Ill. Reg. 2277, effective February 15, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 3639, effective February 26, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 6814, effective April 21, 1993; emergency amendment at 17 Ill. Reg. 19728, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3436, effective February 28, 1994; amended at 18 Ill. Reg. 12839, effective April 29, 1994; amended at 18 Ill. Reg. 8434, effective August 5, 1994; emergency amendment at 19 Ill. Reg. 8434, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15058, effective October 17, 1995; emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9970, effective July 10, 1996; emergency amendment at 21 Ill. Reg. 682, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7413, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8652, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15545, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 16356, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19820, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 588, effective January 1, 1999, for a maximum of 150 days.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 114.10 Citizenship EMERGENCY

To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to specific restrictions as set forth below:

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- b) Non-citizens
 - 1) The following categories of non-citizens may receive assistance, if otherwise eligible:
 - A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;
 - B) Refugees under Section 207 of the Immigration and Nationality Act (INA);
 - C) Asylees under Section 208 of the INA;
 - D) Persons for whom deportation has been withheld under Section 243(h) of the INA;
 - E) Persons granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980;
 - F) Persons lawfully admitted for permanent residence under the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

INA; and

- G) Parolees, for at least one year, under Section 212(d)(5) of the INA; and
- H) Persons admitted to the U.S. as a spouse, widow or child of a U.S. citizen or as a spouse or child of a lawful permanent resident (LPR) who have been subjected to extreme cruelty by the U.S. citizen or LPR or a member of that relative's family who lived with them, who no longer live with the abuser or plans to live separately within one month after receipt of assistance and whose need for assistance is due, at least in part, to the abuse.

- 2) Those persons who are in the categories set forth in (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. effective January 1, 1999, for a maximum of 150 days)

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers: Emergency Action:
112.10 Amendment
- 4) Statutory Authority: 305 ILCS 5/12-4.34
- 5) Effective Date of Amendments: January 1, 1999
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable
- 7) Date filed with the Index Department: January 1, 1999
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: These policies must be put into place to protect the health, safety and welfare of non-citizens who have been battered or subjected to extreme cruelty but who do not otherwise meet the current citizenship requirements.

10) A Complete Description of the Subject and Issues: As a result of these proposed amendments, certain non-citizens will meet the immigration status requirement for assistance if they meet the following criteria:

- . The person was admitted to the U.S. as a spouse, widow, or child of a U.S. citizen or as a spouse or child of a non-citizen who is a lawful permanent abused resident (LPR).
- . The person has been subjected to extreme cruelty by the U.S. citizen or LPR or by a member of that relative's family who lived with them.
- . The person needs assistance, at least in part, due to the abuse.
- . The person no longer lives with the abuser or plans to live separately within one month after receipt of assistance.

These proposed amendments also establish that persons who meet these criteria are qualified non-citizens. They do not have to wait 5 years after entering the U.S. to qualify for assistance. The children of an abused parent or the parents of an abused child may also qualify with the abused person, if they did not participate in the abuse.

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Companion amendments are also being proposed to 89 Ill. Adm. Code 113 and 114.

- 11) Are there any other amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
112.1	Amendment	22 Ill. Reg. 13286
112.9	Amendment	22 Ill. Reg. 13286
112.70	Amendment	22 Ill. Reg. 13286
112.72	Amendment	22 Ill. Reg. 13286
112.74	Amendment	22 Ill. Reg. 13286
112.78	Amendment	22 Ill. Reg. 13286
112.79	Amendment	22 Ill. Reg. 13286
112.80	Amendment	22 Ill. Reg. 13286
112.255	Repeal	22 Ill. Reg. 16135
112.305	Amendment	22 Ill. Reg. 9102

- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 13) Information and questions regarding these amendments shall be directed to:

Ms. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
Telephone number: 217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the emergency amendments begins on the next page:

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 112

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section	
112.1	Description of the Assistance Program
112.5	Incorporation by Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
EMERGENCY	
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.60	Basis of Eligibility
112.61	Death of a Parent (Repealed)
112.62	Incapacity of a Parent (Repealed)
112.63	Continued Absence of a Parent (Repealed)
112.64	Unemployment of the Parent (Repealed)
112.65	Responsibility and Services Plan
112.66	Alcohol and Substance Abuse Treatment
112.67	Restriction in Payment to Households Headed by a Minor Parent
112.68	School Attendance Initiative
112.69	Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section	
112.70	Employment and Work Activity Requirements
112.71	Individuals Exempt from TANF Employment and Work Activity Requirements
112.72	Participation/Cooperation Requirements
112.73	Adolescent Parent Program (Repealed)
112.74	Responsibility and Services Plan
112.75	Teen Parent Personal Responsibility Plan (Repealed)
112.76	TANF Orientation

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112.77	Reconciliation and Fair Hearings
112.78	TANF Employment and Work Activities
112.79	Sanctions
112.80	Good Cause for Failure to Comply with TANF Participation Requirements
112.81	Responsible Relative Eligibility for JOBS (Repealed)
112.82	Supportive Services
112.83	Teen Parent Services
112.84	Work Experience Evaluation Project (Repealed)
112.85	Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section	
112.86	Project Advance (Repealed)
112.87	Project Advance Experimental and Control Groups (Repealed)
112.88	Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89	Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90	Project Advance Sanctions (Repealed)
112.91	Good Cause for Failure to Comply with Project Advance (Repealed)
112.93	Individuals Exempt From Project Advance (Repealed)
112.95	Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section	
112.98	Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section	
112.100	Unearned Income
112.101	Unearned Income of Stepparent or Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.115	Education Benefits
112.120	Incentive Allowances
112.125	Unearned Income In-Kind
112.126	Earmarked Income
112.127	Lump-Sum Payments
112.128	Protected Income (Repealed)
112.130	Earned Income

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112.131 Earned Income Tax Credit
 112.132 Budgeting Earned Income
 112.133 Budgeting Earned Income of Employed Applicants
 112.134 Initial Employment
 112.135 Budgeting Earned Income For Contractual Employees
 112.136 Budgeting Earned Income For Non-Contractual School Employees
 112.137 Termination of Employment
 112.138 Transitional Payments (Repealed)
 112.139 Exempt Earned Income
 112.140 Exempt Earned Income
 112.141 Earned Income Exemption
 112.142 Exclusion From Earned Income Exemption
 112.143 Recognized Employment Expenses
 112.144 Income from Work-Study and Training Programs
 112.145 Earned Income From Self-Employment
 112.146 Earned Income From Roomer and Boarder
 112.147 Income From Rental Property
 112.148 Payments from the Illinois Department of Children and Family Services
 112.149 Earned Income In-Kind
 112.150 Assets
 112.151 Exempt Assets
 112.152 Asset Disregards
 112.153 Deferral of Consideration of Assets
 112.154 Property Transfers (Repealed)
 112.155 Income Limit

SUBPART H: PAYMENT AMOUNTS

Section
 112.250 Grant Levels
 112.251 Payment Levels
 112.252 Payment Levels in Group I Counties
 112.253 Payment Levels in Group II Counties
 112.254 Payment Levels in Group III Counties
 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States

SUBPART I: OTHER PROVISIONS

Section
 112.300 Persons Who May Be Included in the Assistance Unit
 112.301 Presumptive Eligibility
 112.302 Reporting Requirements for Clients with Earnings
 112.303 Retrospective Budgeting
 112.304 Budgeting Schedule
 112.305 Strikers
 112.306 Foster Care Program
 112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96

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112.308 Responsibility of Sponsors of Non-Citizens Entering the Country on or After 8/22/96
 112.309 Institutional Status
 112.310 Child Care for Representative Payees
 112.315 Young Parent Program (Renumbered)
 112.320 Redetermination of Eligibility
 112.330 Extension of Medical Assistance Due to Increased Income from Employment
 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
 112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

SUBPART J: CHILD CARE

Section
 112.350 Child Care (Repealed)
 112.352 Child Care Eligibility (Repealed)
 112.354 Qualified Provider (Repealed)
 112.356 Notification of Available Services (Repealed)
 112.358 Participant Rights and Responsibilities (Repealed)
 112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
 112.364 Rates of Payment for Child Care (Repealed)
 112.366 Method of Providing Child Care (Repealed)
 112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section
 112.400 Transitional Child Care Eligibility (Repealed)
 112.404 Duration of Eligibility for Transitional Child Care (Repealed)
 112.406 Loss of Eligibility for Transitional Child Care (Repealed)
 112.408 Qualified Child Care Providers (Repealed)
 112.410 Notification of Available Services (Repealed)
 112.412 Participant Rights and Responsibilities (Repealed)
 112.414 Child Care Overpayments and Recoveries (Repealed)
 112.416 Fees for Service for Transitional Child Care (Repealed)
 112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4,,

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effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and

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new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987;

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emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27,

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1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19340, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 19340, effective January 1, 1999, for a maximum of 150 days.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 112.10 Citizenship
EMERGENCY

To be eligible for assistance, an individual shall be either a U.S. citizen or a non-citizen within specific categories and subject to specific restrictions as set forth below:

- a) Citizenship status -- Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization

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through court proceedings, or by certain persons born in a foreign country of U.S. citizen parent(s).

b) Non-citizens

1) The following categories of non-citizens may receive assistance, if otherwise eligible:

- A) A United States veteran honorably discharged and a person on active military duty, and the spouse and unmarried dependent children of such a person;
- B) Refugees under Section 207 of the Immigration and Nationality Act (INA);
- C) Asylees under Section 208 of the INA;
- D) Persons for whom deportation has been withheld under Section 243(h) of the INA;
- E) Persons granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980;
- F) Persons lawfully admitted for permanent residence under the INA; and
- G) Parolees, for at least one year, under Section 212(d)(5) of the INA; and
- H) Persons admitted to the U.S. as a spouse, widow or child of a U.S. citizen or as a spouse or child of a lawful permanent abused resident (LPR) who have been subjected to extreme cruelty by the U.S. citizen or LPR or a member of that relative's family who lived with them, who no longer live with the abuser or plans to live separately within one month after receipt of assistance and whose need for assistance is due, at least in part, to the abuse.

- 2) Those persons who are in the categories set forth in (b)(1)(F) and (b)(1)(G) of this Section, who enter the United States on or after August 22, 1996, shall not be eligible for five years beginning on the date the person entered the United States.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 506.1 effective January 1, 1999, for a maximum of 150 days)

ILLINOIS REGISTER

CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLICATION ERROR

1) Heading of the Part: Procurement Practices

2) Code Citation: 44 Ill. Adm. Code 910

3) Register citation of adopted rulemaking and other pertinent action: Adopted at 22 Ill. Reg. 21848 (Issue 51, December 18, 1998)

4) Explanation: In Section 910.130(a), the text published in the Register states "In construction contracts in excess of \$25,000, separate bidding will be specified for at least the five subdivisions of work enumerated by the Code generally as: plumbing, heating, ventilating, electric, and general."

The correct amount is \$250,000.

DEPARTMENT ON AGING

JANUARY 1999 REGULATORY AGENDA

- a) Heading of the Part and Code Citation: Community Care Program, 89 Ill. Adm. Code 240

1) Rulemaking:

- A) Description: Rulemakings: Amend Sections 240.728; 240.729 Service Maximum rules per July 1, 1998 rate increase.

Amend Sections 240.810; 240.815 Asset rules per increase in Medicaid's Prepaid Burial Plan.

- B) Statutory Authority: 20 ILCS 105/4.01 (11) and 5.02

- C) Scheduled meeting/hearing date: The Department does not anticipate conducting public hearings on the new rulemakings.

- D) Date agency anticipates First Notice: The Department anticipates First Notice during the period of time after January 1, 1999, but prior to June 30, 1999.

- E) Affect on small businesses, small municipalities or not for profit corporations: None

- F) Agency contact person for information:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
(217) 785-3346

- G) Related rulemakings and other pertinent information: None

- b) Heading of the Part and Code Citation: Older Americans Act Program, 89 Ill. Adm. Code 230

1) Rulemaking:

- A) Description: Rulemakings: Amended rules with respect to State Agency, Area Agencies on Aging, Service Requirements, Hearings and Federal audit requirements.

Rulemakings amend Sections 230.30; 230.41; 230.43; 230.44; 230.46; 230.120; 230.130; 230.150; 230.210; 230.230; 230.240; 230.250; 230.310; 230.330; 230.350; 230.360; 230.370; 230.410; 230.420; 230.610; 230.630; and 230.650.

DEPARTMENT ON AGING

JANUARY 1999 REGULATORY AGENDA

- B) Statutory Authority: 20 ILCS 105/4.01 (11) and 5.02

- C) Scheduled meeting/hearing date: The Department does not anticipate conducting public hearings on the new rulemakings.

- D) Date agency anticipates First Notice: The Department anticipates First Notice during the period of time after January 1, 1999, but prior to June 30, 1999.

- E) Affect on small businesses, small municipalities or not for profit corporations: None

- F) Agency contact person for information:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
(217) 785-3346

- G) Related rulemakings and other pertinent information: The related rulemaking would occur only through cross-reference throughout the rulemaking.

- c) Heading of the Part and Code Citation: Elder Rights, 89 Ill. Adm. Code 270

1) Rulemaking:

- A) Description: This rulemaking describes the requirements of the Elder Abuse and Neglect Program. The rulemaking includes a description of the purpose and organization of the program, the responsibilities of the Department, the Regional Administrative Agencies and the Elder Abuse and Neglect Provider, the process of intake, classifying, substantiating and following up on a report, confidentiality and immunity and establishing and maintaining a case record.

- B) Statutory Authority: 20 ILCS 105/4.01 (11), 4.04(c), 5.02 and 320 ILCS 20/1

- C) Scheduled meeting/hearing date: The Department does not anticipate conducting public hearings on the new rulemaking.

- D) Date agency anticipates First Notice: The Department anticipates First Notice during the period of time after January 1, 1999, but

DEPARTMENT ON AGING

JANUARY 1999 REGULATORY AGENDA

prior to June 30, 1999.

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Ms. Pamela W. Balmer, Assistant
Office of General Counsel
Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
(217) 785-3346

G) Related rulemakings and other pertinent information: None

ILLINOIS COMMERCE COMMISSION

JANUARY 1999 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Certification of Alternative Retail Electric Suppliers, 83 Ill. Adm. Code 451

1) Rulemaking:

A) Description: This rulemaking will establish standards for the certification of alternative retail electric suppliers that are not utilizing the expedited certification procedures mandated by Section 16115(f) of the Public Utilities Act.

B) Statutory Authority: Implementing and authorized by Section 16115 of the Public Utilities Act [220 ILCS 5/16115].

C) Scheduled meeting/hearing date: Persons interested in participating in this proceeding should file a petition to intervene in Docket 98-0649.

D) Date agency anticipates First Notice: Undetermined

E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect any prospective alternative retail electric supplier that is also a small business.

F) Agency contact person for information:

John Stutsman
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62706
(217) 524-0337

G) Related rulemakings and other pertinent information: Persons interested in this rulemaking may also be interested in docket 98-0544 in which the Commission is developing rules for the expedited certification of alternative retail electric suppliers that seek to serve only those nonresidential customers with a maximum electric demand of one megawatt or more.

b) Part(s) (Heading and Code Citation): Standards of Conduct and Functional Separation, 83 Ill. Adm. Code 452

1) Rulemaking:

A) Description: This rulemaking is designed to establish standards of conduct for electric utilities to create efficient competition between suppliers of generating services and sellers of such services at retail and wholesale and to provide for the functional

ILLINOIS COMMERCE COMMISSION

JANUARY 1999 REGULATORY AGENDA

separation between generation services and delivery services of Illinois electric utilities.

B) Statutory Authority: Implementing and authorized by Section 16119A of the Public Utilities Act [220 ILCS 5/16119A].

C) Scheduled meeting/hearing date: Persons interested in this rulemaking should file petitions to intervene in Dockets 98-0147 and 98-0148.

D) Date agency anticipates First Notice: Undetermined

E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect those electric utilities and alternative retail electric suppliers that are also small businesses.

F) Agency contact for information:

Randy Rismiller
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62706
(217) 785-4046

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Standard Filing Requirements for Electric, Gas, Water and Sewer Utilities and Telecommunications Carriers in Filing for an Increase in Rates, 83 Ill. Adm. Code 285

1) Rulemaking:

A) Description: This rulemaking proceeding is examining the required data that must be filed with the Commission when any of the subject entities files a general rate increase. This material is reviewed by Commission staff in preparation of the rate case.

B) Statutory Authority: Implementing Section 9201 and authorized by Section 10101 of the Public Utilities Act [220 ILCS 5/9201 and 10101].

C) Schedule meeting/hearing date: Persons interested in participating in the proceeding should file a petition to intervene in Docket 93-0351.

D) Date agency anticipates First Notice: Undetermined

ILLINOIS COMMERCE COMMISSION

JANUARY 1999 REGULATORY AGENDA

E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking will affect any subject utilities or local exchange carriers that are also small businesses.

F) Agency contact person for information:

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62706
(217) 782-7434

G) Related rulemakings and other pertinent information: None

COMPTROLLER MERIT COMMISSION

JANUARY 1999 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Merit Commission Rules (80 Ill. Adm. Code 100)

1) Rulemaking:

A) Description of Commission's Powers and Duties: The rules provide the Merit Commission with the power to review and investigate personnel policies and administrative practices to ensure that they are in compliance with the Merit Employment Code. Upon written recommendations by the Director of Personnel, the rules provide the Commission authority to exempt positions from Jurisdiction B of the Merit Employment Code. The Merit Commission rules also provide protection from unjust discharge, suspension, demotion or geographic transfers of employees of the Office of the Comptroller and outlines procedures to hear allocation appeals and approve or disapprove written charges of employees of the Office of the Comptroller.

B) Statutory Authority: Implementing and authorized by the Comptroller Merit Employment Code [15 ILCS 410].

C) Schedule of regular meetings: January 21, 1999; February 18, 1999; March 18, 1999; April 15, 1999; May 20, 1999; June 17, 1999.

D) Date agency anticipates First Notice: The Merit Commission does not anticipate any rule changes at this time. However, any future changes will be discussed at the meetings listed above.

E) Effect on small business, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Bruce Stratton, Chairman
Comptroller Merit Commission
325 West Adams Street
Springfield, IL 62704-1858
(217)785-1127

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 22, 1998 through December 28, 1998 and have been scheduled for review by the Committee at its January 12, 1999 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
2/4/99	Pollution Control Board, Hearings Pursuant to Specific Rules (35 Ill Adm Code 106)	9/4/98 22 Ill Reg 15926	1/12/99
2/4/99	Department of Public Aid, Child Support Enforcement (89 Ill Adm Code 160)	9/25/98 22 Ill Reg 16966	1/12/99
2/4/99	Department of Public Aid, Practice in Administrative Hearings (89 Ill Adm Code 104)	9/25/98 22 Ill Reg 16970	1/12/99
2/5/99	Department of Human Services, Repeal of Access to Information (2 Ill Adm Code 1276)	10/16/98 22 Ill Reg 18131	1/12/99
2/6/99	Department of Public Health, Structural Pest Control Code (77 Ill Adm Code 830)	8/21/98 22 Ill Reg 15184	1/12/99
2/6/99	Department of Public Health, Illinois Mobile Home Tiedown Code (77 Ill Adm Code 870)	10/2/98 22 Ill Reg 17300	1/12/99
2/6/99	State Board of Education, Certification (23 Ill Adm Code 25)	10/2/98 22 Ill Reg 17159	1/12/99

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
JANUARY 12, 1999

NOTICES: Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Children and Family Services

1. Interstate Placement of Children (89 Ill Adm Code 328)
-First Notice Published: 22 Ill Reg 16691 - 9/25/98
-Expiration of Second Notice: 1/27/99

Education

2. Certification (23 Ill Adm Code 25)
-First Notice Published: 22 Ill Reg 17159 - 10/2/98
-Expiration of Second Notice: 2/6/99

Health Facilities Planning Board

3. Narrative and Planning Policies (77 Ill Adm Code 1100)
-First Notice Published: 22 Ill Reg 9134 - 5/29/98
-Expiration of Second Notice: 1/20/99

JOINT COMMITTEE ON ADMINISTRATIVE RULES
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4. Processing, Classification Policies and Review Criteria (77 Ill Adm Code 1110)
-First Notice Published: 22 Ill Reg 9163 - 5/29/98
-Expiration of Second Notice: 1/20/99

5. Health Facilities Planning Procedural Rules (77 Ill Adm Code 1130)
-First Notice Published: 22 Ill Reg 6834 - 4/17/98
-Expiration of Second Notice: 1/20/99

Higher Education

6. State Matching Grant Program (23 Ill Adm Code 1038)
-First Notice Published: 22 Ill Reg 19151 - 10/23/98
-Expiration of Second Notice: 1/21/99

Human Services

7. Public Information, Rulemaking, Department Organization (2 Ill Adm Code 1175)
-First Notice Published: 22 Ill Reg 18183 - 10/16/98
-Expiration of Second Notice: 1/28/99

8. Access to Public Records (2 Ill Adm Code 1176)
-First Notice Published: 22 Ill Reg 18829 - 10/16/98
-Expiration of Second Notice: 1/24/99

9. Repeal of Access to Information (2 Ill Adm Code 1276)
-First Notice Published: 22 Ill Reg 18131 - 10/16/98
-Expiration of Second Notice: 2/5/99

10. Repeal of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 300)
-First Notice Published: 22 Ill Reg 17187 - 10/2/98
-Expiration of Second Notice: 1/14/99

11. Repeal of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 500)
-First Notice Published: 22 Ill Reg 17193 - 10/2/98
-Expiration of Second Notice: 1/14/99

12. Individual Care Grants for Mentally Ill Children (59 Ill Adm Code 135)
-First Notice Published: 22 Ill Reg 17205 - 10/2/98
-Expiration of Second Notice: 2/3/99

13. Customer Rights and Responsibilities (89 Ill Adm Code 677)
-First Notice Published: 22 Ill Reg 17199 - 10/2/98
-Expiration of Second Notice: 1/31/99

14. Prescreening (89 Ill Adm Code 681)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

15. Eligibility (89 Ill Adm Code 682)
-First Notice Published: 22 Ill Reg 18146 - 10/16/98
-Expiration of Second Notice: 1/29/99
16. Subordinated Indebtedness (50 Ill Adm Code 201)
-First Notice Published: 22 Ill Reg 14397 - 8/7/98
-Expiration of Second Notice: 1/14/99
17. Accumulation of Guaranty Fund or Guaranty Capital - Reporting and Accounting of Such Indebtedness (50 Ill Adm Code 301)
-First Notice Published: 22 Ill Reg 14593 - 8/14/98
-Expiration of Second Notice: 1/14/99
- Natural Resources
18. Nuisance Wildlife Control Permits (17 Ill Adm Code 525)
-First Notice Published: 22 Ill Reg 15158 - 8/21/98
-Expiration of Second Notice: 1/30/99
19. Conservation Reserve Enhancement Program (CREP) (17 Ill Adm Code 1515)
-First Notice Published: 22 Ill Reg 17436 - 10/9/98
-Expiration of Second Notice: 1/23/99
20. Plugging and Restoration Contracts (44 Ill Adm Code 610)
-First Notice Published: 22 Ill Reg 14598 - 8/14/98
-Expiration of Second Notice: 1/23/99
21. Repeal of Safety Regulations Relative to Mixing, Handling, Transportation, Storage and Use of Blasting Agents and Nitro-Carbo-Nitrates (62 Ill Adm Code 120)
-First Notice Published: 22 Ill Reg 18199 - 10/16/98
-Expiration of Second Notice: 1/17/99
- Pollution Control Board
22. Hearings Pursuant to Specific Rules (35 Ill Adm Code 106)
-First Notice Published: 22 Ill Reg 15926 - 9/4/98
-Expiration of Second Notice: 2/4/99
- Professional Regulation
23. Funeral Directors and Embalmers Licensing Code (68 Ill Adm Code 1250)
-First Notice Published: 22 Ill Reg 19219 - 10/23/98
-Expiration of Second Notice: 1/24/99

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

24. Illinois Occupational Therapy Practice Act (68 Ill Adm Code 1315)
-First Notice Published: 22 Ill Reg 18820 - 10/16/98
-Expiration of Second Notice: 1/16/99
- Public Aid
25. Practice in Administrative Hearings (89 Ill Adm Code 104)
-First Notice Published: 22 Ill Reg 16970 - 9/25/98
-Expiration of Second Notice: 2/4/99
26. Medical Assistance Program (89 Ill Adm Code 120)
-First Notice Published: 22 Ill Reg 16441 - 9/18/98
-Expiration of Second Notice: 1/28/99
27. Child Support Enforcement (89 Ill Adm Code 160)
-First Notice Published: 22 Ill Reg 16966 - 9/25/98
-Expiration of Second Notice: 2/4/99
- Public Health
28. Structural Pest Control Code (77 Ill Adm Code 830)
-First Notice Published: 22 Ill Reg 15184 - 8/21/98
-Expiration of Second Notice: 2/6/99
29. Illinois Mobile Home Tie-down Code (77 Ill Adm Code 870)
-First Notice Published: 22 Ill Reg 17300 - 10/2/98
-Expiration of Second Notice: 2/6/99
30. Private Sewage Disposal Code (77 Ill Adm Code 905)
-First Notice Published: 22 Ill Reg 6595 - 4/10/98
-Expiration of Second Notice: 2/14/99
- EMERGENCY AND PEREMPTORY RULEMAKINGS
- Fire Marshal
31. Compliance Certification for Underground Storage Tanks (41 Ill Adm Code 171) (Emergency)
-Notice Published: 22 Ill Reg 22411 - 12/28/98
- Human Services
32. Aid to the Aged, Blind or Disabled (89 Ill Adm Code 113) (Emergency)
-Notice Published: 22 Ill Reg 21750 - 12/11/98
- Natural Resources
33. Public Museum Grant Program (23 Ill Adm Code 3200) (Emergency)
-Notice Published: 22 Ill Reg 22097 - 12/18/98

JOINT COMMITTEE ON ADMINISTRATIVE RULES
JANUARY AGENDA

Nuclear Safety

34. Particle Accelerators (32 Ill Adm Code 390) (Emergency)
-Notice Published: 22 Ill Reg 21097 - 12/4/98

35. Radiation Safety Requirements for Industrial Radiographic Operations
(32 Ill Adm Code 350) (Emergency)
-Notice Published: 22 Ill Reg 21101 - 12/4/98

36. Radiation Safety Requirements for Wireline Service Operations and
Subsurface Tracer Studies (32 Ill Adm Code 351) (Emergency)
-Notice Published: 22 Ill Reg 21108 - 12/4/98

Public Aid

37. Medical Payment (89 Ill Adm Code 140) (Emergency)
-Notice Published: 22 Ill Reg 21108 - 12/18/98

Secretary of State

38. Lobbyist Registration and Reports (2 Ill Adm Code 560) (Emergency)
-Notice Published: 22 Ill Reg 22419 - 12/28/98

39. The Illinois State Library Training Program Grants (23 Ill Adm Code
3070) (Emergency)
-Notice Published: 22 Ill Reg 21112 - 12/4/98

AGENCY RESPONSE

Pollution Control Board

40. Proportionate Share Liability (35 Ill Adm Code 741)

Rules acted upon during the calendar quarter from Issue 1 through Issue 16 are listed in the Issues Index by Title number. Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jntale@ccgate.sos.state.il.us (Internet address).

PROPOSED

8-6000-2 89-590-1

EMERGENCY

23 1501 1
35-808-1 80-2700-2
35 809 1 89-112-2
35-811-1 89-113-2
68-1320-1 89-114 2
80-2700-2
83 451 1
89 112 2
89 113 1 2
89 113 2
89 140-1
89-676-1
89-684-1
89-686 1

ADOPTED

8 20-2
8-40 2
8-55-2
8-75-2
8-80 2
8 85 2
8 100-2
8-105 2
8 110 2
8 115 2
8-125 2
17 3045
32-401 1
32 410-1
35 741-2
41 120 1
50 2500-1
50 2505-1
50 2510-1
50 2515-1
50 2520-1
50 2525-1
56-2770-1
59 119-1
68-590-2
68 610-2
89-118-2
89 135-2

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